new animal drugs for investigational use in support of indexing, as described in section 572 of the act, subject to the provisions of § 516.125 of this chapter.

[40 FR 13823, Mar. 27, 1975, as amended at 41 FR 48268, Nov. 2, 1976; 42 FR 15675, Mar. 22, 1977; 50 FR 7517, Feb. 22, 1985; 50 FR 16668, Apr. 26, 1985; 52 FR 8847, Mar. 19, 1987; 54 FR 18280, Apr. 28, 1989; 57 FR 6475, Feb. 25, 1992; 62 FR 40599, July 29, 1997; 72 FR 69121, Dec. 6, 2007; 77 FR 25359, Apr. 30, 2012; 82 FR 61446, Dec. 28, 2017]

§ 511.3 Definitions.

As used in this part:

Contract research organization means a person that assumes, as an independent contractor with the sponsor, one or more of the obligations of a sponsor, e.g., design of a protocol, selection or monitoring of investigations, evaluation of reports, and preparation of materials to be submitted to the Food and Drug Administration.

Investigator means an individual who actually conducts a clinical investigation (i.e., under whose immediate direction the drug is administered or dispensed to a subject). In the event an investigation is conducted by a team of individuals, the investigator is the responsible leader of the team. ''Subinvestigator'' includes any other individual member of that team.

Sponsor means a person who takes responsibility for and initiates a clinical investigation. The sponsor may be an individual or pharmaceutical company, governmental agency, academic institution, private organization, or other organization. The sponsor does not actually conduct the investigation unless the sponsor is a sponsor-investigator. A person other than an individual that uses one or more of its own employees to conduct an investigation that it has initiated is a sponsor, not a sponsor-investigator, and the employees are investigators.

Sponsor-Investigator means an individual who both initiates and conducts an investigation, and under whose immediate direction the investigational drug is administered or dispensed. The term does not include any person other than an individual. The requirements applicable to a sponsor-investigator under this part include both those applicable to an investigator and a sponsor.

[77 FR 25359, Apr. 30, 2012]

PART 514—NEW ANIMAL DRUG APPLICATIONS

Subpart A—General Provisions

Subpart B—Administrative Actions on Applications

Subpart C—Hearing Procedures

Subparts D–E [Reserved]

Subpart F—Judicial Review

AUTHORITY: 21 U.S.C. 321, 331, 351, 352, 354, 356a, 360b, 360ccc, 371, 379e, 381.

SOURCE: 40 FR 13825, Mar. 27, 1975, unless otherwise noted.

Subpart A—General Provisions

§514.1 Applications.

(a) Applications to be filed under section 512(b) of the act shall be submitted in the form and contain the information described in paragraph (b) of this section, as appropriate to support the particular submission. If any part of the application is in a foreign language, an accurate and complete English translation shall be appended to such part. Translations of literature printed in a foreign language shall be accompanied by copies of the original publication. The application must be signed by the applicant or by an authorized attorney, agent, or official. If the applicant or such authorized representative does not reside or have a place of business within the United States, the application must also furnish the name and post office address of, and must be countersigned by, an authorized attorney, agent, or official residing or maintaining a place of business within the United States. Pertinent information may be incorporated in, and will be considered as part of, an application on the basis of specific reference to such information, including information submitted under the provisions of §511.1 of this chapter, in the files of the Food and Drug Administration; however, the reference must be specific in identifying the information. Any reference to information furnished by a person other than the applicant may not be considered unless its use is authorized in a written statement signed by the person who submitted it.

(b) Applications for new animal drugs shall be submitted in triplicate and assembled in the manner prescribed by paragraph (b)(15) of this section, and shall include the following information, as appropriate to support the particular submission:

(1) *Identification.* Whether the submission is an original or supplemental application; the name and the address of the applicant; the date of the application; the trade name(s) (if one has been proposed) and chemical name(s) of the new animal drug. Upon receipt, the application will be assigned a number NADA __, which shall be used for all correspondence with respect to the application.

(2) *Table of contents and summary.* The application shall be organized in a cohesive fashion, shall contain a table of contents which identifies the data and other material submitted, and shall contain a well-organized summary and evaluation of the data in the following form:

(i) Chemistry:

(*a*) Chemical structural formula or description for any new animal drug substance.

(*b*) Relationship to other chemically or pharmacologically related drugs.

(*c*) Description of dosage form and quantitative composition.

(ii) Scientific rationale and purpose the new animal drug is to serve:

(*a*) Clinical purpose.

(*b*) Highlights of laboratory studies: The reasons why certain types of studies were done or omitted as related to the proposed conditions of use and to information already known about this class of compounds. Emphasize any unusual or particularly significant pharmacological effects or toxicological findings.

(*c*) Highlights of clinical studies: The rationale of the clinical study plan showing why types of studies were done, amended, or omitted as related to laboratory studies and prior clinical experience.

(*d*) Conclusions: A short statement of conclusions combining the major points of effectiveness and safety as they relate to the use of the new animal drug.

(3) *Labeling.* Three copies of each piece of all labeling to be used for the article (total of 9).

(i) All labeling should be identified to show its position on, or the manner in which it is to accompany the market package.

(ii) Labeling for nonprescription new animal drugs should include adequate directions for use by the layman under all conditions of use for which the new animal drug is intended, recommended, or suggested in any of the labeling or advertising sponsored by the applicant.

(iii) Labeling for prescription veterinary drugs should bear adequate information for use under which veterinarians can use the new animal drug safely and for the purposes for which it is intended, including those purposes for which it is to be advertised or represented, in accord with § 201.105 of this chapter.

(iv) All labeling for prescription or nonprescription new animal drugs shall be submitted with any necessary use restrictions prominently and conspicuously displayed.

(v) Labeling for new animal drugs intended for use in the manufacture of medicated feeds shall include:

(*a*) Specimens of labeling to be used for such new animal drug with adequate directions for the manufacture and use of finished feeds for all conditions for which the new animal drug is intended, recommended, or suggested in any of the labeling, including advertising, sponsored by the applicant. Ingredient labeling may utilize collective names as provided in § 501.110 of this chapter.

(*b*) Representative labeling proposed to be used for Type B and Type C medicated feeds containing the new animal drug.

(vi) Draft labeling may be submitted for preliminary consideration of an application. Final printed labeling will ordinarily be required prior to approval of an application. Proposed advertising for veterinary prescription drugs may be submitted for comment or approval.

(4) *Components and composition.* A complete list of all articles used for production of the new animal drug including a full list of the composition of each article:

(i) A full list of the articles used as components of the new animal drug. This list should include all substances used in the synthesis, extraction, or other method of preparation of any new animal drug and in the preparation of the finished dosage form, regardless of whether they undergo chemical change or are removed in the process. Each component should be identified by its established name, if any, or complete chemical name, using structural formulas when necessary for specific identification. If any proprietary name is used, it should be followed by a complete quantitative statement of composition. Reasonable alternatives for any listed component may be specified.

(ii) A full statement of the composition of the new animal drug. The statement shall set forth the name and amount of each ingredient, whether active or not, contained in a stated quantity of the new animal drug in the form in which it is to be distributed (for example, amount per tablet or milliliter) and a batch formula representative of that to be employed for the manufacture of the finished dosage form. All components should be included in the batch formula regardless of whether they appear in the finished product. Any calculated excess of an ingredient over the label declaration should be designated as such and percent excess shown. Reasonable variation may be specified.

(iii) If it is a new animal drug produced by fermentation:

(*a*) Source and type of microorganism used to produce the new animal drug.

(*b*) Composition of media used to produce the new animal drug.

(*c*) Type of precursor used, if any, to guide or enhance production of the antibiotic during fermentation.

(*d*) Name and composition of preservative, if any, used in the broth.

(*e*) A complete description of the extraction and purification processes including the names and compositions of the solvents, precipitants, ion exchange resins, emulsifiers, and all other agents used.

(*f*) If the new animal drug is produced by a catalytic hydrogenation process (such as tetracycline from chlortetracycline), a complete description of each chemical reaction with graphic formulas used to produce the new animal drug, including the names of the catalyst used, how it is removed, and how the new animal drug is extracted and purified.

(5) *Manufacturing methods, facilities, and controls.* A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the new animal drug. This description should include full information with respect to

any new animal drug in sufficient detail to permit evaluation of the adequacy of the described methods of manufacture, processing, and packing, and the described facilities and controls to determine and preserve the identity, strength, quality, and purity of the new animal drug, and the following:

(i) If the applicant does not himself perform all the manufacturing, processing, packaging, labeling, and control operations for any new animal drug, he shall: Identify each person who will perform any part of such operations and designate the part; and provide a signed statement from each such person fully describing, directly or by reference, the methods, facilities, and controls he will use in his part of the operation. The statement shall include a commitment that no changes will be made without prior approval by the Food and Drug Administration, unless permitted under §514.8.

(ii) A description of the qualifications, including educational background and experience, of the technical and professional personnel who are responsible for assuring that the new animal drug has the identity, strength, quality, and purity it purports or is represented to possess, and a statement of their responsibilities.

(iii) A description of the physical facilities including building and equipment used in manufacturing, processing, packaging, labeling, storage, and control operations.

(iv) The methods used in the synthesis, extraction, isolation, or purification of any new animal drug. When the specifications and controls applied to such new animal drugs are inadequate in themselves to determine its identity, strength, quality, and purity, the methods should be described in sufficient detail, including quantities used, times, temperature, pH, solvents, etc., to determine these characteristics. Alternative methods or variations in methods within reasonable limits that do not affect such characteristics of the new animal drug may be specified. A flow sheet and indicated equations should be submitted when needed to explain the process.

(v) Precautions to insure proper identity, strength, quality, and purity of the raw materials, whether active or not, including:

(*a*) The specifications for acceptance and methods of testing for each lot of raw material.

(*b*) A statement as to whether or not each lot of raw materials is given a serial number to identify it, and the use made of such numbers in subsequent plant operations.

(vi) The instructions used in the manufacturing, processing, packaging, and labeling of each dosage form of the new animal drug, including:

(*a*) The method of preparation of the master formula records and individual batch records and the manner in which these records are used.

(*b*) The number of individuals checking weight or volume of each individual ingredient entering into each batch of the new animal drug.

(*c*) A statement as to whether or not the total weight or volume of each batch is determined at any stage of the manufacturing process subsequent to making up a batch according to the formula card and, if so, at what stage and by whom it is done.

(*d*) The precautions used in checking the actual package yield produced from a batch of the new animal drug with the theoretical yield. This should include a description of the accounting for such items as discards, breakage, etc., and the criteria used in accepting or rejecting batches of drugs in the event of an unexplained discrepancy.

(*e*) The precautions used to assure that each lot of the new animal drug is packaged with the proper label and labeling, including provisions for labeling storage and inventory control.

(*f*) Any special precautions used in the operations.

(vii) The analytical controls used during the various stages of the manufacturing, processing, packaging, and labeling of the new animal drug, including a detailed description of the collection of samples and the analytical procedures to which they are subjected. The analytical procedures should be capable of determining the active components within a reasonable degree of accuracy and of assuring the identity of such components.

(*a*) A description of practicable methods of analysis of adequate sensitivity

to determine the amount of the new animal drug in the final dosage form should be included. The dosage form may be a finished pharmaceutical product, a Type A medicated article, a Type B or a Type C medicated feed, or a product for use in animal drinking water. Where two or more active ingredients are included, methods should be quantitative and specific for each active ingredient.

(*b*) If the article is one that is represented to be sterile, the same information with regard to the manufacturing, processing, packaging, and the collection of samples of the drug should be given for sterility controls. Include the standards used for acceptance of each lot of the finished drug.

(viii) An explanation of the exact significance of any batch control numbers used in the manufacturing, processing, packaging, and labeling of the new animal drug, including such control numbers that may appear on the label of the finished article. State whether these numbers enable determination of the complete manufacturing history of the product. Describe any methods used to permit determination of the distribution of any batch if its recall is required.

(ix) Adequate information with respect to the characteristics of and the test methods employed for the container, closure, or other component parts of the drug package to assure their suitability for the intended use.

(x) A complete description of, and data derived from, studies of the stability of the new animal drug in the final dosage form, including information showing the suitability of the analytical methods used. A description of any additional stability studies underway or planned. Stability data for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the new animal drug is intended for use in the manufacture of Type C medicated feed as defined in § 558.3 of this chapter, stability data derived from studies in which representative formulations of the medicated feed articles are used. Similar data may be required for Type B medicated feeds as determined by the Food and Drug Administration on a case-by-case basis. Expiration dates shall be proposed for finished pharmaceutical dosage forms and Type A medicated articles. If the data indicate that an expiration date is needed for Type B or Type C medicated feeds, the applicant shall propose such expiration date. If no expiration date is proposed for Type B or Type C medicated feeds, the applicant shall justify its absence with data.

(xi) Additional procedures employed which are designed to prevent contamination and otherwise assure proper control of the product. An application may be refused unless it includes adequate information showing that the methods used in, and the facilities and controls used for, the manufacturing, processing, and packaging of the new animal drug are adequate to preserve its identity, strength, quality, and purity in conformity with good manufacturing practice and identifies each establishment, showing the location of the plant conducting these operations.

(6) *Samples.* Samples of the new animal drug and articles used as components and information concerning them may be requested by the Center for Veterinary Medicine as follows:

(i) Each sample shall consist of four identical, separately packaged subdivisions, each containing at least three times the amount required to perform the laboratory test procedures described in the application to determine compliance with its control specifications for identity and assays. Each of the samples submitted shall be appropriately packaged and labeled to preserve its characteristics, to identify the material and the quantity in each subdivision of the sample, and to identify each subdivision with the name of the applicant and the new animal drug application to which it relates. Included are:

(*a*) A sample or samples of any reference standard and blank used in the procedures described in the application for assaying each new animal drug and other assayed components of the finished new animal drug.

(*b*) A representative sample or samples of each strength of the finished

dosage form proposed in the application and employed in the clinical investigations and a representative sample or samples of each new animal drug from the batch(es) employed in the production of such dosage form.

(*c*) A representative sample or samples of finished market packages of each strength of the dosage form of the new animal drug prepared for initial marketing and, if any such sample is not from a representative commercial-scale production batch, such a sample from a representative commercial-scale production batch, and a representative sample or samples of each new animal drug from the batch(es) employed in the production of such dosage form, provided that in the case of new animal drugs marketed in large packages the sample should contain only three times a sufficient quantity of the new animal drug to allow for performing the control tests for drug identity and assays.

(ii) The following information shall be included for the samples when requested:

(*a*) For each sample submitted, full information regarding its identity and the origin of any new animal drug contained therein (including a statement whether it was produced on a laboratory, pilot-plant, or full-production scale) and detailed results of all laboratory tests made to determine the identity, strength, quality, and purity of the batch represented by the sample, including assays.

(*b*) For any reference standard submitted, a complete description of its preparation and the results of all laboratory tests on it. If the test methods used differed from those described in the application, full details of the methods employed in obtaining the reporting results.

(7) *Analytical methods for residues.* Applications shall include a description of practicable methods for determining the quantity, if any, of the new animal drug in or on food, and any substance formed in or on food because of its use, and the proposed tolerance or withdrawal period or other use restrictions to ensure that the proposed use of this drug will be safe. When data or other adequate information establish that it is not reasonable to expect the new animal drug to become a component of food at concentrations considered unsafe, a regulatory method is not required.

(i) The kind of information required by this subdivision may include: Complete experimental protocols for determining drug residue levels in the edible products, and the length of time required for residues to be eliminated from such products following the drug's use; residue studies conducted under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration to show levels, if any, of the drug and/or its metabolites in test animals during and upon cessation of treatment and at intervals thereafter in order to establish a disappearance curve; if the drug is to be used in combination with other drugs, possible effects of interaction demonstrated by the appropriate disappearance curve or depletion patterns after drug withdrawal under appropriate (consistent with the proposed usage) conditions of dosage, time, and route of administration; if the drug is given in the feed or water, appropriate consumption records of the medicated feed or water and appropriate performance data in the treated animal; if the drug is to be used in more than one species, drug residue studies or appropriate metabolic studies conducted for each species that is food-producing. To provide these data, a sufficient number of birds or animals should be used at each sample interval. Appropriate use of labeled compounds (e.g. radioactive tracers), may be utilized to establish metabolism and depletion curves. Drug residue levels ordinarily should be determined in muscle, liver, kidney, and fat and where applicable, in skin, milk, and eggs (yolk and egg white). As a part of the metabolic studies, levels of the drug or metabolite should be determined in blood where feasible. Samples may be combined where necessary. Where residues are suspected or known to be present in litter from treated animals, it may be necessary to include data with respect to such residues becoming components of other agricultural commodities because of use of litter from treated animals.

(ii) A new animal drug that has the potential to contaminate human food

with residues whose consumption could present a risk of cancer to people must satisfy the requirements of subpart E of part 500 of this chapter.

(8) *Evidence to establish safety and effectiveness.* (i) An application may be refused unless it contains full reports of adequate tests by all methods reasonably applicable to show whether or not the new animal drug is safe and effective for use as suggested in the proposed labeling.

(ii) An application may be refused unless it includes substantial evidence of the effectiveness of the new animal drug as defined in § 514.4.

(iii) An application may be refused unless it contains detailed reports of the investigations, including studies made on laboratory animals, in which the purpose, methods, and results obtained are clearly set forth of acute, subacute, and chronic toxicity, and unless it contains appropriate clinical laboratory results related to safety and efficacy. Such information should include identification of the person who conducted each investigation, a statement of where the investigations were conducted, and where the raw data are available in the application.

(iv) All information pertinent to an evaluation of the safety and effectiveness of the new animal drug received or otherwise obtained by the applicant from any source, including information derived from other investigations or commercial marketing (for example, outside the United States), or reports in the scientific literature, both favorable and unfavorable, involving the new animal drug that is the subject of the application and related new animal drugs shall be submitted. An adequate summary may be acceptable in lieu of a reprint of a published report that only supports other data submitted. Include any evaluation of the safety or effectiveness of the new animal drug that has been made by the applicant's veterinary or medical department, expert committee, or consultants.

(v) If the new animal drug is a combination of active ingredients or animal drugs, an application may be refused unless it includes substantial evidence of the effectiveness of the combination new animal drug as required in § 514.4.

(vi) An application shall include a complete list of the names and post office addresses of all investigators who received the new animal drug. This may be incorporated in whole or in part by reference to information submitted under the provisions of § 511.1 of this chapter.

(vii) Explain any omission of reports from any investigator to whom the investigational new animal drug has been made available. The unexplained omission of any reports of investigations made with the new animal drug by the applicant or submitted to him by an investigator or the unexplained omission of any pertinent reports of investigations or clinical experience received or otherwise obtained by the applicant from published literature or other sources that would bias an evaluation of the safety of the new animal drug or its effectiveness in use, constitutes grounds for the refusal or withdrawal of the approval of an application.

(viii) If a sponsor has transferred any obligations for the conduct of any clinical study to a contract research organization, the application is required to include a statement containing the name and address of the contract research organization, identifying the clinical study, and listing the obligations transferred. If all obligations governing the conduct of the study have been transferred, a general statement of this transfer—in lieu of a listing of the specific obligations transferred—may be submitted.

(ix) If original subject records were audited or reviewed by the sponsor in the course of monitoring any clinical study to verify the accuracy of the case reports submitted to the sponsor, a list identifying each clinical study so audited or reviewed.

(9) *Veterinary feed directive.* Three copies of a veterinary feed directive (VFD) must be submitted in a form that accounts for the information described under § 558.6(b)(3) and 558.6(b)(4) of this chapter.

(10) *Supplemental applications.* If it is a supplemental application, full information shall be submitted on each proposed change concerning any statement made in the approved application.

(11) *Applicant's commitment.* It is understood that the labeling and advertising for the new animal drug will prescribe, recommend, or suggest its use only under the conditions stated in the labeling which is part of this application and if the article is a prescription new animal drug, it is understood that any labeling which furnishes or purports to furnish information for use or which prescribes, recommends, or suggests a dosage for use of the new animal drug will also contain, in the same language and emphasis, information for its use including indications, effects, dosages, routes, methods, and frequency and duration of administration, any relevant hazards, contraindications, side effects, and precautions contained in the labeling which is part of this application. It is understood that all representations in this application apply to the drug produced until changes are made in conformity with §514.8.

(12) *Additional commitments.* (i) New animal drugs as defined in §510.3 of this chapter, intended for use in the manufacture of animal feeds in any State will be shipped only to persons who may receive such drugs in accordance with §510.7 of this chapter.

(ii) The methods, facilities, and controls described under item 5 of this application conform to the current good manufacturing practice regulations in subchapter C of this chapter.

(iii) With respect to each nonclinical laboratory study contained in the application, either a statement that the study was conducted in compliance with the good laboratory practice regulations set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance.

(13) [Reserved]

(14) *Environmental assessment.* The applicant is required to submit either a claim for categorical exclusion under §25.30 or §25.33 of this chapter or an environmental assessment under §25.40 of this chapter.

(15) *Assembling and binding the application.* Assemble and bind an original and two copies of the application as follows:

(i) Bind the original or ribbon copy of the application as copy No. 1.

(ii) Bind two identical copies as copy No. 2 and copy No. 3.

(iii) Identify each front cover with the name of the applicant, new animal drug, and the copy number.

(iv) Number each page of the application sequentially in the upper right hand corner or in another location so that the page numbers remain legible after the application has been bound, and organize the application consistent with paragraphs (b) (1) through (14) of this section. Each copy should bear the same page numbering, whether sequential in each volume or continuous and sequential throughout the application.

(v) Include complete labeling in each of the copies. It is suggested that labeling be identified by date of printing or date of preparation.

(vi) Submit separate applications for each different dosage form of the drug proposed. Repeating basic information pertinent to all dosage forms in each application is unnecessary if reference is made to the application containing such information. Include in each application information applicable to the specific dosage form, such as labeling, composition, stability data, and method of manufacture.

(vii) Submit in folders amendments, supplements, and other correspondence sent after submission of an original application. The front cover of these submissions should be identified with the name of the applicant, new animal drug, copy number, and the new animal drug application number, if known.

(c) When a new animal drug application is submitted for a new animal drug which has a stimulant, depressant, or hallucinogenic effect on the central nervous system, if it appears that the drug has a potential for abuse, the Commissioner shall forward that information to the Attorney General of the United States.

[40 FR 13825, Mar. 27, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §514.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

§ 514.3 Definitions.

The definition and interpretation of terms contained in this section apply to those terms as used throughout subchapter E.

Adverse drug experience is any adverse event associated with the use of a new animal drug, whether or not considered to be drug related, and whether or not the new animal drug was used in accordance with the approved labeling (i.e., used according to label directions or used in an extralabel manner, including but not limited to different route of administration, different species, different indications, or other than labeled dosage). Adverse drug experience includes, but is not limited to:

(1) An adverse event occurring in animals in the course of the use of an animal drug product by a veterinarian or by a livestock producer or other animal owner or caretaker.

(2) Failure of a new animal drug to produce its expected pharmacological or clinical effect (lack of expected effectiveness).

(3) An adverse event occurring in humans from exposure during manufacture, testing, handling, or use of a new animal drug.

ANADA is an abbreviated new animal drug application including all amendments and supplements.

Applicant is a person or entity who owns or holds on behalf of the owner the approval for an NADA or an ANADA, and is responsible for compliance with applicable provisions of the act and regulations.

Increased frequency of adverse drug experience is an increased rate of occurrence of a particular serious adverse drug event, expected or unexpected, after appropriate adjustment for drug exposure.

NADA is a new animal drug application including all amendments and supplements.

Nonapplicant is any person other than the applicant whose name appears on the label and who is engaged in manufacturing, packing, distribution, or labeling of the product.

Potential applicant means any person:

(1) Intending to investigate a new animal drug under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the act),

(2) Investigating a new animal drug under section 512(j) of the act,

(3) Intending to file a new animal drug application (NADA) or supplemental NADA under section 512(b)(1) of the act, or

(4) Intending to file an abbreviated new animal drug application (ANADA) under section 512(b)(2) of the act.

Presubmission conference means one or more conferences between a potential applicant and FDA to reach a binding agreement establishing a submission or investigational requirement.

Presubmission conference agreement means that section of the memorandum of conference headed ''Presubmission Conference Agreement'' that records any agreement on the submission or investigational requirement reached by a potential applicant and FDA during the presubmission conference.

Product defect/manufacturing defect is the deviation of a distributed product from the standards specified in the approved application, or any significant chemical, physical, or other change, or deterioration in the distributed drug product, including any microbial or chemical contamination. A manufacturing defect is a product defect caused or aggravated by a manufacturing or related process. A manufacturing defect may occur from a single event or from deficiencies inherent to the manufacturing process. These defects are generally associated with product contamination, product deterioration, manufacturing error, defective packaging, damage from disaster, or labeling error. For example, a labeling error may include any incident that causes a distributed product to be mistaken for, or its labeling applied to, another product.

Serious adverse drug experience is an adverse event that is fatal, or life-threatening, or requires professional intervention, or causes an abortion, or stillbirth, or infertility, or congenital anomaly, or prolonged or permanent disability, or disfigurement.

Unexpected adverse drug experience is an adverse event that is not listed in the current labeling for the new animal drug and includes any event that may be symptomatically and pathophysiologically related to an

event listed on the labeling, but differs from the event because of greater severity or specificity. For example, under this definition hepatic necrosis would be unexpected if the labeling referred only to elevated hepatic enzymes or hepatitis.

[68 FR 15365, Mar. 31, 2003, as amended at 69 FR 51170, Aug. 18, 2004]

§514.4 Substantial evidence.

(a) *Definition of substantial evidence.* Substantial evidence means evidence consisting of one or more adequate and well-controlled studies, such as a study in a target species, study in laboratory animals, field study, bioequivalence study, or an in vitro study, on the basis of which it could fairly and reasonably be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of the new animal drug involved that the new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. Substantial evidence shall include such adequate and well-controlled studies that are, as a matter of sound scientific judgment, necessary to establish that a new animal drug will have its intended effect.

(b) *Characteristics of substantial evidence*—(1) *Qualifications of experts.* Any study that is intended to be part of substantial evidence of the effectiveness of a new animal drug shall be conducted by experts qualified by scientific training and experience.

(2) *Intended uses and conditions of use.* Substantial evidence of effectiveness of a new animal drug shall demonstrate that the new animal drug is effective for each intended use and associated conditions of use for and under which approval is sought.

(i) *Dose range labeling.* Sponsors should, to the extent possible, provide for a dose range because it increases the utility of the new animal drug by providing the user flexibility in the selection of a safe and effective dose. In general, substantial evidence to support dose range labeling for a new animal drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for the intended use at the lowest dose of the dose range suggested in the proposed labeling for that intended use. Substantial evidence to support dose range labeling for a new animal drug intended to affect the structure or function of the body of an animal generally must consist of at least one adequate and well-controlled study on the basis of which qualified experts could fairly and reasonably conclude that the new animal drug will be effective for the intended use at all doses within the range suggested in the proposed labeling for the intended use.

(ii) [Reserved]

(3) *Studies*—(i) *Number.* Substantial evidence of the effectiveness of a new animal drug for each intended use and associated conditions of use shall consist of a sufficient number of current adequate and well-controlled studies of sufficient quality and persuasiveness to permit qualified experts:

(A) To determine that the parameters selected for measurement and the measured responses reliably reflect the effectiveness of the new animal drug;

(B) To determine that the results obtained are likely to be repeatable, and that valid inferences can be drawn to the target animal population; and

(C) To conclude that the new animal drug is effective for the intended use at the dose or dose range and associated conditions of use prescribed, recommended, or suggested in the proposed labeling.

(ii) *Types.* Adequate and well-controlled studies that are intended to provide substantial evidence of the effectiveness of a new animal drug may include, but are not limited to, published studies, foreign studies, studies using models, and studies conducted by or on behalf of the sponsor. Studies using models shall be validated to establish an adequate relationship of parameters measured and effects observed in the model with one or more significant effects of treatment.

(c) *Substantial evidence for combination new animal drugs*—(1) *Definitions.* The following definitions of terms apply to this section:

(i) *Combination new animal drug* means a new animal drug that contains more than one active ingredient or animal drug that is applied or administered simultaneously in a single dosage form or simultaneously in or on animal feed or drinking water.

(ii) *Dosage form combination new animal drug* means a combination new animal drug intended for use other than in animal feed or drinking water.

(iii) *Antibacterial* with respect to a particular target animal species means an active ingredient or animal drug: That is approved in that species for the diagnosis, cure, mitigation, treatment, or prevention of bacterial disease; or that is approved for use in that species for any other use that is attributable to its antibacterial properties. But, antibacterial does not include ionophores or arsenicals intended for use in combination in animal feed or drinking water.

(iv) *Appropriate concurrent use* exists when there is credible evidence that the conditions for which the combination new animal drug is intended can occur simultaneously.

(2) *Combination new animal drugs that contain only active ingredients or animal drugs that have previously been separately approved.* (i) For dosage form combination new animal drugs, except for those that contain a nontopical antibacterial, that contain only active ingredients or animal drugs that have previously been separately approved for the particular uses and conditions of use for which they are intended in combination, a sponsor shall demonstrate:

(A) By substantial evidence, as defined in this section, that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the effectiveness of the combination new animal drug;

(B) That each active ingredient or animal drug intended for at least one use that is different from all the other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target animal population; and

(C) That the active ingredients or animal drugs are physically compatible and do not have disparate dosing regimens if FDA, based on scientific information, has reason to believe the active ingredients or animal drugs are physically incompatible or have disparate dosing regimens.

(ii) For combination new animal drugs intended for use in animal feed or drinking water that contain only active ingredients or animal drugs that have previously been separately approved for the particular uses and conditions of use for which they are intended in combination, the sponsor shall demonstrate:

(A) By substantial evidence, as defined in this section, that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the effectiveness of the combination new animal drug;

(B) For such combination new animal drugs that contain more than one antibacterial ingredient or animal drug, by substantial evidence, as defined in this section, that each antibacterial makes a contribution to labeled effectiveness;

(C) That each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target animal population; and

(D) That the active ingredients or animal drugs intended for use in drinking water are physically compatible if FDA, based on scientific information, has reason to believe the active ingredients or animal drugs are physically incompatible.

(3) *Other combination new animal drugs.* For all other combination new animal drugs, the sponsor shall demonstrate by substantial evidence, as defined in this section, that the combination new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling and that each active ingredient or animal drug contributes to the effectiveness of the combination new animal drug.

[64 FR 40756, July 28, 1999]

§514.5 Presubmission conferences.

(a) *General principle underlying the conduct of a presubmission conference.* The general principle underlying the conduct of any presubmission conference is that there should be candid, full, and open communication.

(b) *Requesting a presubmission conference.* A potential applicant is entitled to one or more conferences prior to the submission of an NADA, supplemental NADA, or an ANADA to reach an agreement establishing part or all of a submission or investigational requirement. A potential applicant's request for a presubmission conference must be submitted to FDA in a signed letter. The letter must include a proposed agenda that clearly outlines the scope, purpose, and objectives of the presubmission conference and must list the names and positions of the representatives who are expected to attend the presubmission conference on behalf of the applicant.

(c) *Timing.* A potential applicant may request one or more presubmission conferences at any time prior to the filing of a NADA, supplemental NADA, or an ANADA. A request for a presubmission conference must be received by FDA at least 30 calendar days in advance of the requested conference date. FDA will schedule the presubmission conference at a time agreeable to both FDA and the potential applicant.

(d) *Advance information.* The potential applicant must provide to FDA, at least 30 calendar days before a scheduled presubmission conference, a detailed agenda, a copy of any materials to be presented at the conference, a list of proposed indications and, if available, a copy of the proposed labeling for the product under consideration, and copies of materials evaluated or referenced relative to issues listed in the agenda for the conference. If the materials are not provided or are not sufficient to provide the basis for meaningful discussion, FDA may elect to postpone part or all of the meeting until sufficient materials are provided to FDA.

(e) *Conduct of a presubmission conference.* The potential applicant and FDA may each bring consultants to the presubmission conference. The presubmission conference(s) will be directed primarily at establishing agreement between FDA and the potential applicant regarding a submission or investigational requirement. The submission or investigational requirement may include, among other things, the number, types, and general design of studies that are necessary to demonstrate the safety and effectiveness of a new animal drug for the intended uses and conditions of use prescribed, recommended, or suggested in the proposed labeling for the new animal drug.

(f) *Documentation of a presubmission conference*—(1) *Memorandum of conference*—(i) *Preparation.* FDA will prepare a memorandum for each presubmission conference that will include, among other things, any background pertinent to the request for meeting; a summary of the key points of discussion; agreements; and action items and assignments of responsibility. That portion of the memorandum of conference that documents any agreements reached regarding all or part of a submission or investigational requirement will be included under the heading ''Presubmission Conference Agreement.'' If the presubmission conference agreement section of the memorandum is silent on an issue, including one that was discussed in the conference or addressed by materials provided for the conference, such silence does not constitute agreement between FDA and the potential applicant on the issue.

(ii) *Sending a copy to the potential applicant.* FDA will send a copy of the memorandum to the potential applicant for review no later than 45 calendar days after the date of the conference

(iii) *Requests for changes or clarification.* If a potential applicant requests changes to, or clarification of, the substance of the memorandum, the request must be sent to FDA within 30 calendar days from the date a copy of the memorandum is sent to the applicant. If the potential applicant requests changes or clarification, FDA will send the potential applicant a response to their request no later than 45 calendar days after the date of receipt of the request.

(iv) *Administrative record.* A copy of FDA's original memorandum of conference and, as appropriate, a copy of an amended memorandum to correct or clarify the content of the original memorandum will be made part of the administrative file.

(2) *Field studies.* If FDA requires more than one field study to establish by substantial evidence that the new animal drug is effective for its intended uses under the conditions of use prescribed, recommended, or suggested in the proposed labeling, FDA will provide written scientific justification for requiring more than one field study. Such justification must be provided no later than 25 calendar days after the date of the conference at which the requirement for more than one field study is established. If FDA does not believe more than one field study is required but the potential applicant voluntarily proposes to conduct more than one field study, FDA will not provide such written justification. If FDA requires one field study to be conducted at multiple locations, FDA will provide justification for requiring multiple locations verbally during the presubmission conference and in writing as part of the memorandum of conference.

(g) *Modification of presubmission conference agreements.* An agreement made under a presubmission conference requested under section 512(b)(3) of the act and documented in a memorandum of conference is binding on the potential applicant and FDA and may only be modified if:

(1) FDA and the potential applicant mutually agree to modify, in part or in whole, the agreement and such modification is documented and provided to the potential applicant as described in paragraph (f)(1) of this section; or

(2) FDA by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the new animal drug appeared after the conference.

(h) *When the terms of a presubmission conference agreement are not valid.* (1) A presubmission conference agreement will no longer be valid if:

(i) The potential applicant makes to FDA, before, during, or after the presubmission conference, any untrue statement of material fact; or

(ii) The potential applicant fails to follow any material term of the agreement; and

(2) A presubmission conference may no longer be valid if the potential applicant submits false or misleading data relating to a new animal drug to FDA.

(i) *Dispute resolution.* FDA is committed to resolving differences between a potential applicant and FDA reviewing divisions with respect to requirements for the investigation of new animal drugs and for NADAs, supplemental NADAs, and ANADAs as quickly and amicably as possible through a cooperative exchange of information and views. When administrative or procedural disputes arise, a potential applicant should first attempt to resolve the matter within the appropriate review division beginning with the individual(s) most directly assigned to the review of the application or investigational exemption. If the dispute cannot be resolved after such attempts, the dispute shall be evaluated and administered in accordance with applicable regulations (21 CFR 10.75). Dispute resolution procedures may be further explained by guidance available from the Center for Veterinary Medicine.

[69 FR 51170, Aug. 18, 2004]

§ 514.6 Amended applications.

The applicant may submit an amendment to an application that is pending, including changes that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the drug or the adequacy of the manufacturing methods, facilities, and controls to preserve them, in which case the unamended application may be considered as withdrawn and the amended application may be considered resubmitted on the date on which the amendment is received by the Food and Drug Administration. The applicant will be notified of such date.

§ 514.7 Withdrawal of applications without prejudice.

The sponsor may withdraw his pending application from consideration as a

new animal drug application upon written notification to the Food and Drug Administration. Such withdrawal may be made without prejudice to a future filing. Upon resubmission, the time limitation will begin to run from the date the resubmission is received by the Food and Drug Administration. The original application will be retained by the Food and Drug Administration although it is considered withdrawn. The applicant shall be furnished a copy at cost on request.

§514.8 Supplements and other changes to an approved application.

(a) *Definitions.* (1) The definitions and interpretations contained in section 201 of the Federal Food, Drug, and Cosmetic Act (the act) apply to those terms when used in this part.

(2) The following definitions of terms apply to this part:

(i) *Assess the effects of the change* means to evaluate the effects of a manufacturing change on the identity, strength, quality, purity, and potency of a drug as these factors may relate to the safety or effectiveness of the drug.

(ii) *Drug substance* means an active ingredient as defined under §210.3(b)(7) of this chapter.

(iii) *Minor changes and stability report (MCSR)* means an annual report that is submitted to the application once each year within 60 days before or after the anniversary date of the application's original approval or on a mutually agreed upon date. The report must include minor manufacturing and control changes made according to §514.8(b)(4) or state that no changes were made; and stability data generated on commercial or production batches according to an approved stability protocol or commitment.

(iv) *Specification* means the quality standard (i.e., tests, analytical procedures, and acceptance criteria) provided in an approved application to confirm the quality of drugs including, for example, drug substances, Type A medicated articles, drug products, intermediates, raw materials, reagents, components, in-process materials, container closure systems, and other materials used in the production of a drug. For the purpose of this definition, the term ''acceptance criteria'' means numerical limits, ranges, or other criteria for the tests described.

(b) *Manufacturing changes to an approved application*—(1) *General provisions.* (i) The applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided for in the application. The notice is required to describe the change fully. Depending on the type of change, the applicant must notify FDA about it in a supplement under paragraph (b)(2) or (b)(3) of this section or by inclusion of the information in the annual report to the application under paragraph (b)(4) of this section.

(ii) The holder of an approved application under section 512 of the act must assess the effects of the change before distributing a drug made with a manufacturing change.

(iii) Notwithstanding the requirements of paragraphs (b)(2) and (b)(3) of this section, an applicant must make a change provided for in those paragraphs in accordance with a regulation or guidance that provides for a less burdensome notification of the change (for example, by submission of a supplement that does not require approval prior to distribution of the drug, or by notification in the next annual report described in paragraph (b)(4) of this section).

(iv) In each supplement and amendment to a supplement providing for a change under paragraph (b)(2) or (b)(3) of this section, the applicant must include a statement certifying that a field copy has been provided to the appropriate FDA district office. No field copy is required for a supplement providing for a change made to a drug manufactured outside of the United States.

(v) A supplement or annual report described in paragraph (b)(4) of this section must include a list of all changes contained in the supplement or annual report. For supplements, this list must be provided in the cover letter.

(2) *Changes requiring submission and approval of a supplement prior to distribution of the drug made using the change (major changes).* (i) A supplement must be submitted for any change in the drug, production process,

quality controls, equipment, or facilities that has a substantial potential to have an adverse effect on the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug.

(ii) These changes include, but are not limited to:

(A) Except those described in paragraphs (b)(3) and (b)(4) of this section, changes in the qualitative or quantitative formulation of the drug, including inactive ingredients, or in the specifications provided in the approved application;

(B) Changes requiring completion of appropriate clinical studies to demonstrate the equivalence of the drug to the drug as manufactured without the change;

(C) Changes that may affect drug substance or drug product sterility assurance, such as changes in drug substance, drug product or component sterilization method(s) or an addition, deletion, or substitution of steps in an aseptic processing operation;

(D) Changes in the synthesis or manufacture of the drug substance that may affect the impurity profile and/or the physical, chemical, or biological properties of the drug substance;

(E) Changes in a drug product container closure system that controls the drug delivered to the animal or changes in the type or composition of a packaging component that may affect the impurity profile of the drug product;

(F) Changes solely affecting a natural product, a recombinant DNA-derived protein/polypeptide, or a complex or conjugate of a drug substance with a monoclonal antibody for the following:

(*1*) Changes in the virus or adventitious agent removal or inactivation method(s),

(*2*) Changes in the source material or cell line, and

(*3*) Establishment of a new master cell bank or seed;

(G) Changes to a drug under an application that is subject to a validity assessment because of significant questions regarding the integrity of the data supporting that application.

(iii) The applicant must obtain approval of a supplement from FDA prior to distribution of a drug made using a change under paragraph (b)(2) of this section. The supplement must be labeled ''Prior Approval Supplement.'' Except for submissions under paragraph (b)(2)(v) of this section, the following information must be contained in the supplement:

(A) A completed Form FDA 356V;

(B) A detailed description of the proposed change;

(C) The drug(s) involved;

(D) The manufacturing site(s) or area(s) affected;

(E) A description of the methods used and studies performed to assess the effects of the change;

(F) The data derived from such studies;

(G) Appropriate documentation (for example, updated master batch records, specification sheets) including previously approved documentation (with the changes highlighted) or references to previously approved documentation;

(H) For a natural product, a recombinant DNA-derived protein/polypeptide, or a complex or conjugate of a drug substance with a monoclonal antibody, relevant validation protocols and standard operating procedures must be provided in addition to the requirements in paragraphs (b)(2)(iii)(E) and (b)(2)(iii)(F) of this section;

(I) For sterilization process and test methodologies related to sterilization process validation, relevant validation protocols and a list of relevant standard operating procedures must be provided in addition to the requirements in paragraphs (b)(2)(iii)(E) and (b)(2)(iii)(F) of this section; and

(J) Any other information as directed by FDA.

(iv) An applicant may ask FDA to expedite its review of a supplement for public health reasons or if a delay in making the change described in it would impose an extraordinary hardship on the applicant. Such a supplement and its mailing cover must be plainly marked: ''Prior Approval Supplement-Expedited Review Requested.''

(v) *Comparability Protocols.* An applicant may submit one or more protocols describing the specific tests and studies and acceptance criteria to be achieved

to demonstrate the lack of adverse effect for specified types of manufacturing changes on the identity, strength, quality, purity, and potency of the drug as these factors may relate to the safety or effectiveness of the drug. Any such protocols, if not included in the approved application, or changes to an approved protocol, must be submitted as a supplement requiring approval from FDA prior to distribution of the drug produced with the manufacturing change. The supplement, if approved, may subsequently justify a reduced reporting category for the particular change because the use of the protocol for that type of change reduces the potential risk of an adverse effect. A comparability protocol supplement must be labeled ''Prior Approval Supplement—Comparability Protocol.''

(3) *Changes requiring submission of a supplement at least 30 days prior to distribution of the drug made using the change (moderate changes).* (i) A supplement must be submitted for any change in the drug, production process, quality controls, equipment, or facilities that has a moderate potential to have an adverse effect on the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug.

(ii) These changes include, but are not limited to:

(A) A change in the container closure system that does not affect the quality of the drug except as otherwise described in paragraphs (b)(2) and (b)(4) of this section;

(B) Changes solely affecting a natural protein, a recombinant DNA-derived protein/polypeptide or a complex or conjugate of a drug substance with a monoclonal antibody, including:

(*1*) An increase or decrease in production scale during finishing steps that involves different equipment, and

(*2*) Replacement of equipment with that of a different design that does not affect the process methodology or process operating parameters.

(C) Relaxation of an acceptance criterion or deletion of a test to comply with an official compendium that is consistent with FDA statutory and regulatory requirements.

(iii) A supplement submitted under paragraph (b)(3)(i) or (b)(3)(vi) of this section is required to give a full explanation of the basis for the change and identify the date on which the change is made. The supplement submitted under paragraph (b)(3)(i) must be labeled ''Supplement-Changes Being Effected in 30 Days.''

(iv) Pending approval of the supplement by FDA and except as provided in paragraph (b)(3)(vi) of this section, distribution of the drug made using the change may begin not less than 30 days after receipt of the supplement by FDA. The information listed in paragraphs (b)(2)(iii)(A) through (b)(2)(iii)(J) of this section must be contained in the supplement.

(v) The applicant must not distribute the drug made using the change if within 30 days following FDA's receipt of the supplement, FDA informs the applicant that either:

(A) The change requires approval prior to distribution of the drug in accordance with paragraph (b)(2) of this section; or

(B) Any of the information required under paragraph (b)(3)(iv) of this section is missing. In this case, the applicant must not distribute the drug made using the change until the supplement has been amended to provide the missing information.

(vi) The agency may designate a category of changes for the purpose of providing that, in the case of a change in such category, the holder of an approved application may commence distribution of the drug involved upon receipt by the agency of a supplement for the change. The information listed in paragraphs (b)(2)(iii)(A) through (b)(2)(iii)(J) of this section must be contained in the supplement. The supplement must be labeled ''Supplement-Changes Being Effected.'' These changes include, but are not limited to:

(A) Addition to a specification or changes in the methods or controls to provide increased assurance that the drug will have the characteristics of identity, strength, quality, purity, or potency that it purports or is represented to possess; and

(B) A change in the size and/or shape of a container for a nonsterile drug product, except for solid dosage forms,

without a change in the labeled amount of drug product or from one container closure system to another.

(vii) If the agency disapproves the supplemental application, it may order the manufacturer to cease distribution of the drug(s) made with the manufacturing change.

(4) *Changes and updated stability data to be described and submitted in an annual report (minor changes).* (i) Changes in the drug, production process, quality controls, equipment, or facilities that have a minimal potential to have an adverse effect on the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug must be documented by the applicant in an annual report to the application as described under paragraph (a)(2)(iii) of this section. The report must be labeled ''Minor Changes and Stability Report.''

(ii) These changes include but are not limited to:

(A) Any change made to comply with a change to an official compendium, except a change in paragraph (b)(3)(ii)(C) of this section, that is consistent with FDA statutory and regulatory requirements;

(B) The deletion or reduction of an ingredient intended to affect only the color of the drug product;

(C) Replacement of equipment with that of the same design and operating principles except for those equipment changes described in paragraph (b)(3)(ii)(B)(2) of this section;

(D) A change in the size and/or shape of a container containing the same number of dosage units for a nonsterile solid dosage form drug product, without a change from one container closure system to another;

(E) A change within the container closure system for a nonsterile drug product, based upon a showing of equivalency to the approved system under a protocol approved in the application or published in an official compendium;

(F) An extension of an expiration dating period based upon full shelf-life data on production batches obtained from a protocol approved in the application;

(G) The addition or revision of an alternative analytical procedure that provides the same or increased assurance of the identity, strength, quality, purity, or potency of the drug being tested as the analytical procedure described in the approved application, or deletion of an alternative analytical procedure; and

(H) The addition by embossing, debossing, or engraving of a code imprint to a solid oral dosage form drug product other than a modified release dosage form, or a minor change in an existing code imprint.

(iii) For changes under this category, the applicant is required to submit in the annual report:

(A) A completed Form FDA 356V;

(B) A statement by the holder of the approved application that the effects of the change have been assessed;

(C) A detailed description of the change(s);

(D) The manufacturing site(s) or area(s) involved;

(E) The date each change was implemented;

(F) Data from studies and tests performed to assess the effects of the change;

(G) For a natural product, recombinant DNA-derived protein/polypeptide, complex or conjugate of a drug substance with a monoclonal antibody, sterilization process or test methodology related to sterilization process validation, relevant validation protocols and/or standard operating procedures;

(H) Appropriate documentation (for example, updated master batch records, specification sheets, etc.) including previously approved documentation (with the changes highlighted) or references to previously approved documentation;

(I) Updated stability data generated on commercial or production batches according to an approved stability protocol or commitment; and

(J) Any other information as directed by FDA.

(c) *Labeling and other changes to an approved application*—(1) *General provisions.* The applicant must notify FDA about each change in each condition established in an approved application beyond the variations already provided

for in the application. The notice is required to describe the change fully.

(2) *Labeling changes requiring the submission and approval of a supplement prior to distribution of the drug made using the change (major changes).* (i) Addition of intended uses and changes to package labeling require a supplement. These changes include, but are not limited to:

(A) Revision in labeling, such as updating information pertaining to effects, dosages, adverse reactions, contraindications, which includes information headed ''adverse reactions,'' ''warnings,'' ''precautions,'' and ''contraindications,'' except ones described in (c)(3) of this section;

(B) Addition of an intended use;

(C) If it is a prescription drug, any mailing or promotional piece used after the drug is placed on the market is labeling requiring a supplemental application, unless:

(*1*) The parts of the labeling furnishing directions, warnings, and information for use of the drug are the same in language and emphasis as labeling approved or permitted; and

(*2*) Any other parts of the labeling are consistent with and not contrary to such approved or permitted labeling.

(*3*) Prescription drug labeling not requiring an approved supplemental application is submitted in accordance with §514.80(b)(5)(ii).

(D) Any other changes in labeling, except ones described in paragraph (c)(3) of this section.

(ii) The applicant must obtain approval of the supplement from FDA prior to distribution of the drug. The supplement must contain the following:

(A) A completed Form FDA 356V;

(B) A detailed description of the proposed change;

(C) The drug(s) involved;

(D) The data derived from studies in support of the change; and

(E) Any other information as directed by FDA.

(3) *Labeling changes to be placed into effect prior to receipt of a written notice of approval of a supplemental application.* (i) Labeling changes of the following kinds that increase the assurance of drug safety proposed in supplemental applications must be placed into effect immediately:

(A) The addition to package labeling, promotional labeling, or prescription drug advertising of additional warning, contraindication, adverse reaction, and precaution information;

(B) The deletion from package labeling, promotional labeling, or drug advertising of false, misleading, or unsupported intended uses or claims for effectiveness; and

(C) Any other changes as directed by FDA.

(ii) Labeling changes (for example, design and style) that do not decrease safety of drug use proposed in supplemental applications may be placed into effect prior to written notice of approval from FDA of a supplemental application.

(iii) A supplement submitted under paragraph (c)(3) of this section must include the following information:

(A) A full explanation of the basis for the changes, the date on which such changes are being effected, and plainly marked on the mailing cover and on the supplement, ''Supplement—Labeling Changes Being Effected'';

(B) Two sets of printed copies of any revised labeling to be placed in use, identified with the new animal drug application number; and

(C) A statement by the applicant that all promotional labeling and all drug advertising will promptly be revised consistent with the changes made in the labeling on or within the new animal drug package no later than upon approval of the supplemental application.

(iv) If the supplemental application is not approved and the drug is being distributed with the proposed labeling, FDA may initiate an enforcement action because the drug is misbranded under section 502 of the act and/or adulterated under section 501 of the act. In addition, under section 512(e) of the act, FDA may, after due notice and opportunity for a hearing, issue an order withdrawing approval of the application.

(4) *Changes providing for additional distributors to be reported under Records and reports concerning experience with approved new animal drugs (§514.80).* Supplemental applications as described

under paragraph (c)(2) of this section will not be required for an additional distributor to distribute a drug that is the subject of an approved new animal drug application or abbreviated new animal drug application if the conditions described under § 514.80(b)(5)(iii) are met.

(d) *Patent information.* The applicant must comply with the patent information requirements under section 512(c)(3) of the act.

(e) *Claimed exclusivity.* If an applicant claims exclusivity under section 512(c)(2)(F) of the act upon approval of a supplemental application for a change in its previously approved drug, the applicant must include such a statement.

(f) *Good laboratory practice for nonclinical laboratory studies.* A supplemental application that contains nonclinical laboratory studies must include, with respect to each nonclinical study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance.

[71 FR 74782, Dec. 13, 2006]

§ 514.11 Confidentiality of data and information in a new animal drug application file.

(a) For purposes of this section the *NADA file* includes all data and information submitted with or incorporated by reference in the NADA, INAD's incorporated into the NADA, supplemental NADA's, reports under §§ 514.80 and 510.301 of this chapter, master files, and other related submissions. The availability for public disclosure of any record in the NADA file shall be handled in accordance with the provisions of this section.

(b) The existence of an NADA file will not be disclosed by the Food and Drug Administration before the application has been approved, unless it has been previously disclosed or acknowledged.

(c) If the existence of an NADA file has not been publicly disclosed or acknowledged, no data or information in the NADA file is available for public disclosure.

(d) If the existence of an NADA file has been publicly disclosed or acknowledged before the application has been approved, no data or information contained in the file is available for public disclosure, but the Commissioner may, in his discretion, disclose a summary of such selected portions of the safety and effectiveness data as are appropriate for public consideration of a specific pending issue, i.e., at an open session of a Food and Drug Administration advisory committee or pursuant to an exchange of important regulatory information with a foreign government.

(e) After an application has been approved, the following data and information in the NADA file are immediately available for public disclosure unless extraordinary circumstances are shown:

(1) All safety and effectiveness data and information previously disclosed to the public, as defined in § 20.81 of this chapter.

(2) A summary or summaries of the safety and effectiveness data and information submitted with or incorporated by reference in the NADA file. Such summaries do not constitute the full reports of investigations under section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) on which the safety or effectiveness of the drug may be approved. Such summaries shall consist of the following:

(i) For an NADA approved prior to July 1, 1975, internal agency records that describe such data and information, e.g., a summary of basis for approval or internal reviews of the data and information, after deletion of:

(*a*) Names and any information that would identify the investigators.

(*b*) Any inappropriate gratuitous comments unnecessary to an objective analysis of the data and information.

(ii) For an NADA approved after July 1, 1975, a summary of such data and information prepared in one of the following two alternative ways shall be publicly released when the application is approved.

(*a*) The Center for Veterinary Medicine may at an appropriate time prior to approval of the NADA require the applicant to prepare a summary of such data and information, which will be reviewed and, where appropriate, revised by the Center.

(*b*) The Center for Veterinary Medicine may prepare its own summary of such data and information.

(3) A protocol for a test or study, unless it is shown to fall within the exemption established for trade secrets and confidential commercial information in § 20.61 of this chapter.

(4) Adverse reaction reports, product experience reports, consumer complaints, and other similar data and information, after deletion of:

(i) Names and any information that would identify the person using the product.

(ii) Names and any information that would identify any third party involved with the report, such as a physician, hospital, or other institution.

(5) A list of all active ingredients and any inactive ingredients previously disclosed to the public as defined in § 20.81 of this chapter.

(6) An assay method or other analytical method, unless it serves no regulatory or compliance purpose and is shown to fall within the exemption established in § 20.61 of this chapter.

(7) All correspondence and written summaries of oral discussions relating to the NADA, in accordance with the provisions of part 20 of this chapter.

(f) All safety and effectiveness data and information not previously disclosed to the public are available for public disclosure at the time any one of the following events occurs unless extraordinary circumstances are known:

(1) The NADA has been abandoned and no further work is being undertaken with respect to it.

(2) A final determination is made that the NADA is not approvable, and all legal appeals have been exhausted.

(3) Approval of the NADA is withdrawn, and all legal appeals have been exhausted.

(4) A final determination has been made that the animal drug is not a new animal drug.

(5) A final determination has been made that the animal drug may be marketed without submission of such safety and/or effectiveness data and information.

(g) The following data and information in an NADA file are not available for public disclosure unless they have been previously disclosed to the public as defined in § 20.81 of this chapter or they relate to a product or ingredient that has been abandoned and they no longer represent a trade secret or confidential commercial or financial information as defined in § 20.61 of this chapter:

(1) Manufacturing methods or processes, including quality control procedures.

(2) Production, sales, distribution, and similar data and information, except that any compilation of such data and information aggregated and prepared in a way that does not reveal data or information which is not available for public disclosure under this provision is available for public disclosure.

(3) Quantitative or semiquantitative formulas.

(h) For purposes of this regulation, safety and effectiveness data include all studies and tests of an animal drug on animals and all studies and tests on the animal drug for identity, stability, purity, potency, and bioavailability.

[40 FR 13825, Mar. 27, 1975, as amended at 42 FR 3109, Jan. 14, 1977; 42 FR 15675, Mar. 22, 1977; 54 FR 18280, Apr. 28, 1989; 68 FR 15365, Mar. 31, 2003; 79 FR 14611, Mar. 17, 2014]

§ 514.12 Confidentiality of data and information in an investigational new animal drug notice.

(a) The existence of an INAD notice will not be disclosed by the Food and Drug Administration unless it has previously been publicly disclosed or acknowledged.

(b) The availability for public disclosure of all data and information in an INAD file shall be handled in accordance with provisions established in § 514.11.

§ 514.15 Untrue statements in applications.

Among the reasons why an application for a new animal drug or animal feed bearing or containing a new animal drug may contain an untrue statement of a material fact are:

(a) Differences in:

(1) Conditions of use prescribed, recommended, or suggested by the applicant for the product from the conditions of such use stated in the application;

(2) Articles used as components of the product from those listed in the application;

(3) Composition of the product from that stated in the application;

(4) Methods used in or the facilities and controls used for the manufacture, processing, or packing of the product from such methods, facilities, and controls described in the application;

(5) Labeling from the specimens contained in the application; or

(b) The unexplained omission in whole or in part from an application or from an amendment or supplement to an application or from any record or report required under the provisions of section 512 of the act and § 514.80 or § 510.301 of this chapter of any information obtained from:

(1) Investigations as to the safety, effectiveness, identity, strength, quality, or purity of the drug, made by the applicant on the drug, or

(2) Investigations or experience with the product that is the subject of the application, or any related product, available to the applicant from any source if such information is pertinent to an evaluation of the safety, effectiveness, identity, strength, quality, or purity of the drug, when such omission would bias an evaluation of the safety or effectiveness of the product.

(c) Any nonclinical laboratory study contained in the application was not conducted in compliance with the good laboratory practice regulations as set forth in part 58 of this chapter, and the application fails to include a brief statement of the reason for the noncompliance.

[40 FR 13825, Mar. 27, 1975, as amended at 49 FR 7226, Feb. 28, 1984; 50 FR 7517, Feb. 22, 1985; 68 FR 15365, Mar. 31, 2003]

Subpart B—Administrative Actions on Applications

§ 514.80 Records and reports concerning experience with approved new animal drugs.

The following table outlines the purpose for each paragraph of this section:

Purpose	21 CFR Paragraph and Title
What information must be reported concerning approved NADAs or ANADAs?	514.80(a) Applicability.
What authority does FDA have for requesting records and reports? Who is required to establish, maintain, and report required information relating to experiences with a new animal drug? Is information from foreign sources required?	514.80(a)(1).
What records must be established and maintained and what reports filed with FDA?	514.80(a)(2).
What is FDA's purpose for requiring reports?	514.80(a)(3).
Do applicants of Type A medicated articles have to establish, maintain, and report information required under § 514.80?	514.80(a)(4).
How do the requirements under § 514.80 relate to current good manufacturing practices?	514.80(a)(5).
	514.80(b) Reporting requirements.
What are the requirements for reporting product/manufacturing defects?	514.80(b)(1) Three-day NADA/ANADA field alert report.
	514.80(b)(2) Fifteen-day NADA/ANADA alert report.
What are the requirements for reporting serious and unexpected adverse drug experiences?	514.80(b)(2)(i) Initial report.
What are the requirements for followup reporting of serious and unexpected adverse drug experiences?	514.80(b)(2)(ii) Followup report.
What are the requirements for nonapplicants for reporting adverse drug experiences?	514.80(b)(3) Nonapplicant report.

Purpose	21 CFR Paragraph and Title
What are the general requirements for submission of periodic drug experience reports, *e.g.,* method of submission, submission date and frequency, when is it to be submitted, how many copies? How do I petition to change the date of submission or frequency of submissions?	514.80(b)(4) Periodic drug experience report.
What must be submitted in the periodic drug experience reports?	514.80(b)(4)(i) through (b)(4)(iv).
What distribution data must be submitted? How should the distribution data be submitted?	514.80(b)(4)(i) Distribution data.
What labeling materials should be submitted? How do I report changes to the labeling materials since the last report?	514.80(b)(4)(ii) Labeling.
	514.80(b)(4)(iii) Nonclinical laboratory studies and clinical data not previously reported.
What are the requirements for submission of nonclinical laboratory studies?	514.80(b)(4)(iii)(A).
What are the requirements for submission of clinical laboratory data?	514.80(b)(4)(iii)(B).
When must results of clinical trials conducted by or for the applicant be reported?	514.80(b)(4)(iii)(C).
	514.80(b)(4)(iv) Adverse drug experiences.
How do I report product/manufacturing defects and adverse drug experiences not previously reported to FDA?	514.80(b)(4)(iv)(A).
What are the requirements for submitting adverse drug experiences cited in literature?	514.80(b)(4)(iv)(B).
What are the requirements for submitting adverse drug experiences in postapproval studies and clinical trials?	514.80(b)(4)(iv)(C).
What are the requirements for reporting increases in the frequency of serious, expected, and unexpected adverse drug experiences?	514.80(b)(4)(v) Summary report of increased frequency of adverse drug experience.
	514.80(b)(5) Other reporting.
Can FDA request that an applicant submit information at different times than stated specifically in this regulation?	514.80(b)(5)(i) Special drug experience report.
What are the requirements for submission of advertisement and promotional labeling to FDA?	514.80(b)(5)(ii) Advertisements and promotional labeling.
What are the requirements for adding a new distributor to the approved application?	514.80(b)(5)(iii) Distributor's statement.
What labels and how many labels need to be submitted for review?	514.80(b)(5)(iii)(A).
What changes are required and allowed to distributor labeling?	514.80(b)(5)(iii)(A)(*1*).
What are the requirements for making other changes to the distributor labeling?	514.80(b)(5)(iii)(A)(*2*).
What information should be included in each new distributor's signed statement?	514.80(b)(5)(iii)(B)(*1*) through (b)(5)(iii)(B)(*5*).
What are the conditions for submitting information that is common to more than one application? (i.e., can I submit common information to one application?)	514.80(c) Multiple applications.
What information has to be submitted to the common application and related application?	514.80(c)(1) through (c)(4).
What reports must be submitted to FDA electronically? How can I apply for a waiver from the electronic reporting requirements? How do I obtain Form FDA 1932 and Form FDA 2301?	514.80(d) Format for Submissions.
How long must I maintain records and reports required by this section?	514.80(e) Records to be maintained.

Purpose	21 CFR Paragraph and Title
What are the requirements for allowing access to these records and reports, and copying by authorized FDA officer or employee?	514.80(f) Access to records and reports.
Where do I mail reports that are not required to be submitted electronically?	514.80(g) Mailing addresses.
What happens if the applicant fails to establish, maintain, or make the required reports? What happens if the applicant refuses to allow FDA access to, and/or copying and/or verify records and reports?	514.80(h) Withdrawal of approval.
Does an adverse drug experience reflect a conclusion that the report or information constitutes an admission that the drug caused an adverse effect?	514.80(i) Disclaimer.

(a) *Applicability*. (1) Each applicant must establish and maintain indexed and complete files containing full records of all information pertinent to safety or effectiveness of a new animal drug that has not been previously submitted as part of the NADA or ANADA. Such records must include information from domestic as well as foreign sources. Each nonapplicant must establish and maintain indexed and complete files containing full records of all information pertinent to safety or effectiveness of a new animal drug that is received or otherwise obtained by the nonapplicant. Such records must include information from domestic as well as foreign sources.

(2) Each applicant must submit reports of data, studies, and other information concerning experience with new animal drugs to the Food and Drug Administration (FDA) for each approved NADA and ANADA, as required in this section. A nonapplicant must submit data, studies, and other information concerning experience with new animal drugs to the appropriate applicant, as required in this section. The applicant, in turn, must report the nonapplicant's data, studies, and other information to FDA. Applicants and nonapplicants must submit data, studies, and other information described in this section from domestic, as well as foreign sources.

(3) FDA reviews the records and reports required in this section to facilitate a determination under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) as to whether there may be grounds for suspending or withdrawing approval of the NADA or ANADA.

(4) The requirements of this section also apply to any approved Type A medicated article. In addition, the requirements contained in §514.80(b)(1), (b)(2), (b)(4)(iv), and (b)(4)(v) apply to any approved Type A medicated article incorporated in animal feeds.

(5) The records and reports referred to in this section are in addition to those required by the current good manufacturing practice regulations in parts 211, 225, and 226 of this chapter.

(b) *Reporting requirements*—(1) *Three-day NADA/ANADA field alert report*. This report provides information pertaining to product and manufacturing defects that may result in serious adverse drug events. The applicant (or nonapplicant through the applicant) must submit the report to the appropriate FDA District Office or local FDA resident post within 3 working days of first becoming aware that a defect may exist. The information initially may be provided by telephone or other telecommunication means, with prompt written followup using Form FDA 1932 ''Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report.'' The mailing cover for these reports must be plainly marked ''3-Day NADA/ANADA Field Alert Report.'' If the applicant elects to also report directly to the FDA's Center for Veterinary Medicine (CVM), the applicant must submit the report to CVM in electronic format as described in paragraph (d)(1) of this section, unless the applicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format.

(2) *Fifteen-day NADA/ANADA alert report*—(i) *Initial report.* This report provides information on each serious, unexpected adverse drug event, regardless of the source of the information. The applicant (or nonapplicant through the applicant) must submit the report to FDA within 15 working days of first receiving the information. The report must be submitted to FDA in electronic format as described in paragraph (d)(1) of this section, unless the applicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format.

(ii) *Followup report.* The applicant must promptly investigate all adverse drug events that are the subject of 15-day NADA/ANADA alert reports. If this investigation reveals significant new information, a followup report must be submitted within 15 working days of receiving such information. A followup report must be submitted to FDA in electronic format as described in paragraph (d)(1) of this section, unless the applicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format. The followup report must state the date of the initial report and provide the additional information. If additional information is sought but not obtained within 3 months of the initial report, a followup report is required describing the steps taken and why additional information was not obtained.

(3) *Nonapplicant report.* Nonapplicants must forward reports of adverse drug experiences to the applicant within 3 working days of first receiving the information. The applicant must then submit the report(s) to FDA as required in this section. The nonapplicant must maintain records of all nonapplicant reports, including the date the nonapplicant received the information concerning adverse drug experiences, the name and address of the applicant, and a copy of the adverse drug experience report including the date such report was submitted to the applicant. If the nonapplicant elects to also report directly to FDA, the nonapplicant must submit the report to FDA in electronic format as described in paragraph (d)(1) of this section, unless the nonapplicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format.

(4) *Periodic drug experience report.* This report must be accompanied by a completed Form FDA 2301 ''Transmittal of Periodic Reports and Promotional Materials for New Animal Drugs.'' It must be submitted every 6 months for the first 2 years following approval of an NADA or ANADA and yearly thereafter. Reports required by this section must contain data and information for the full reporting period. The 6-month periodic drug experience reports must be submitted within 30 days following the end of the 6-month reporting period. The yearly periodic drug experience reports must be submitted within 90 days of the anniversary date of the approval of the NADA or ANADA. Any previously submitted information contained in the report must be identified as such. For yearly (annual) periodic drug experience reports, the applicant may petition FDA to change the date of submission or frequency of reporting, and after approval of such petition, file such reports on the new filing date or at the new reporting frequency. Also, FDA may require a report at different times or more frequently. The periodic drug experience report must contain the following:

(i) *Distribution data.* (A) Information about the distribution of each new animal drug product, including information on any distributor-labeled product. This information must include the total number of distributed units of each size, strength, or potency (*e.g.*, 100,000 bottles of 100 5-milligram tablets; 50,000 10-milliliter vials of 5-percent solution). This information must be presented in two categories: Quantities distributed domestically and quantities exported.

(B) Applicants submitting annual sales and distribution reports for antimicrobial new animal drug products under § 514.87 have the option not to report distribution data under paragraph (b)(4)(i)(A) of this section for the approved applications that include these same products, but only provided each of the following conditions are met:

(*1*) Applicants must have submitted complete periodic drug experience reports under this section for such applications for at least 2 full years after the date of their initial approval.

(*2*) Applicants must ensure that the beginning of the reporting period for the annual periodic drug experience reports for such applications is January 1. For applications that currently have a reporting period that begins on a date other than January 1, applicants must request a change in reporting submission date such that the reporting period begins on January 1 and ends on December 31, as described in paragraph (b)(4) of this section.

(*3*) Applicants that change their reporting submission date must also submit a special drug experience report, as described in paragraph (b)(5)(i) of this section, that addresses any gaps in distribution data caused by the change in date of submission.

(*4*) Applicants who choose not to report under paragraph (b)(4)(i)(A) of this section must ensure that full sales and distribution data for each product approved under such applications are alternatively reported under § 514.87, including products that are labeled for use only in nonfood-producing animals.

(ii) *Labeling.* Applicant and distributor current package labeling, including package inserts (if any). For large-size package labeling or large shipping cartons, a representative copy must be submitted (e.g., a photocopy of pertinent areas of large feed bags). A summary of any changes in labeling made since the last report (listed by date of implementation) must be included with the labeling or if there have been no changes, a statement of such fact must be included with the labeling.

(iii) Nonclinical laboratory studies and clinical data not previously reported.

(A) Copies of in vitro studies (e.g., mutagenicity) and other nonclinical laboratory studies conducted by or otherwise obtained by the applicant.

(B) Copies of published clinical trials of the new animal drug (or abstracts of them) including clinical trials on safety and effectiveness, clinical trials on new uses, and reports of clinical experience pertinent to safety conducted by or otherwise obtained by the applicant. Review articles, 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 are not required to be reported.

(C) Descriptions of completed clinical trials conducted by or for the applicant must be submitted no later than 1 year after completion of research. Supporting information is not to be reported.

(iv) *Adverse drug experiences.* (A) Product/manufacturing defects and adverse drug experiences not previously reported under paragraphs (b)(1) and (2) of this section must be reported individually to FDA in electronic format as described in paragraph (d)(1) of this section, unless the applicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format.

(B) Reports of adverse drug experiences in the literature must be noted in the periodic drug experience report. A bibliography of pertinent references must be included with the report. Upon FDA's request, the applicant must provide a full text copy of these publications.

(C) Reports of previously not reported adverse drug experiences that occur in postapproval studies must be reported individually to FDA in electronic format as described in paragraph (d)(1) of this section, unless the applicant obtains a waiver under paragraph (d)(2) of this section or FDA requests the report in an alternate format.

(v) *Summary report of increased frequency of adverse drug experience.* The applicant must periodically review the incidence of reports of adverse drug experiences to determine if there has been an increased frequency of serious (expected and unexpected) adverse drug events. The applicant must evaluate the increased frequency of serious (expected or unexpected) adverse drug events at least as often as reporting of periodic drug experience reports. The applicant must report the increased frequency of serious (expected and unexpected) adverse drug events in the periodic drug experience report. Summaries of reports of increased frequency of adverse drug events must be

submitted in narrative form. The summaries must state the time period on which the increased frequency is based, time period comparisons in determining increased frequency, references to any reports previously submitted under paragraphs (b)(1), (2), and (3) and (b)(4)(iv)(A) and (C) of this section, the method of analysis, and the interpretation of the results. The summaries must be submitted in a separate section within the periodic drug experience report.

(5) *Other reporting*—(i) *Special drug experience report.* Upon written request, FDA may require that the applicant submit a report required under § 514.80 at different times or more frequently than the timeframes stated in § 514.80.

(ii) *Advertisements and promotional labeling.* The applicant must submit at the time of initial dissemination one set of specimens of mailing pieces and other labeling for prescription and over-the-counter new animal drugs. For prescription new animal drugs, the applicant must also submit one set of specimens of any advertisement at the time of initial publication or broadcast. Mailing pieces and labeling designed to contain product samples must be complete except that product samples may be omitted. Each submission of promotional labeling or advertisements must be accompanied by a completed Form FDA 2301.

(iii) *Distributor's statement.* At the time of initial distribution of a new animal drug product by a distributor, the applicant must submit a special drug experience report accompanied by a completed Form FDA 2301 containing the following:

(A) The distributor's current product labeling.

(*1*) The distributor's labeling must be identical to that in the approved NADA/ANADA except for a different and suitable proprietary name (if used) and the name and address of the distributor. The name and address of the distributor must be preceded by an appropriate qualifying phrase as permitted by the regulations such as ''manufactured for'' or ''distributed by.''

(*2*) Other labeling changes must be the subject of a supplemental NADA or ANADA as described under § 514.8.

(B) A signed statement by the distributor stating:

(*1*) The category of the distributor's operations (e.g., wholesale or retail),

(*2*) That the distributor will distribute the new animal drug only under the approved labeling,

(*3*) That the distributor will promote the product only for use under the conditions stated in the approved labeling,

(*4*) That the distributor will adhere to the records and reports requirements of this section, and

(*5*) That the distributor is regularly and lawfully engaged in the distribution or dispensing of prescription products if the product is a prescription new animal drug.

(c) *Multiple applications.* Whenever an applicant is required to submit a periodic drug experience report under the provisions of § 514.80(b)(4) with respect to more than one approved NADA or ANADA for preparations containing the same new animal drug so that the same information is required to be reported for more than one application, the applicant may elect to submit as a part of the report for one such application (the primary application) all the information common to such applications in lieu of reporting separately and repetitively on each. If the applicant elects to do this, the applicant must do the following:

(1) State when a report applies to multiple applications and identify all related applications for which the report is submitted by NADA or ANADA number.

(2) Ensure that the primary application contains a list of the NADA or ANADA numbers of all related applications.

(3) Submit a completed Form FDA 2301 to the primary application and each related application with reference to the primary application by NADA/ANADA number and submission date for the complete report of the common information.

(4) All other information specific to a particular NADA/ANADA must be included in the report for that particular NADA/ANADA.

(d) *Format for submissions*—(1) *Electronic submissions.* Except as provided in paragraph (d)(2) of this section, reports submitted to FDA under paragraphs

(b)(2)(i) and (ii), (b)(3), and (b)(4)(iv)(A) and (C) of this section and reports submitted to CVM under paragraph (b)(1) of this section must be submitted in an electronic format that FDA can process, review, and archive. Data provided in electronic submissions must be in conformance with the data elements in Form FDA 1932 and FDA technical documents describing transmission. As necessary, FDA will issue updated technical documents on how to provide the electronic submission (*e.g.*, method of transmission and processing, media, file formats, preparation, and organization of files). Unless requested by FDA, paper copies of reports submitted electronically should not be submitted to FDA.

(2) *Waivers.* An applicant or nonapplicant may request, in writing, a temporary waiver of the electronic submission requirements in paragraph (d)(1) of this section. The initial request may be by telephone or email to CVM's Division of Veterinary Product Safety, with prompt written followup submitted as a letter to the application(s). FDA will grant waivers on a limited basis for good cause shown. If FDA grants a waiver, the applicant or nonapplicant must comply with the conditions for reporting specified by FDA upon granting the waiver.

(3) *Paper forms.* If approved by FDA before use, a computer-generated equivalent of Form FDA 1932 may be used for reports submitted to the appropriate FDA District Office or local FDA resident post under paragraph (b)(1) of this section and to FDA under paragraph (d)(2) of this section, and a computer-generated equivalent of Form FDA 2301 may be used for reports submitted to FDA under paragraph (b)(4) of this section. Form FDA 1932 may be obtained on the FDA website, by telephoning CVM's Division of Veterinary Product Safety, or by submitting a written request to the following address: Food and Drug Administration, Center for Veterinary Medicine, Division of Veterinary Product Safety (HFV–240), 7500 Standish Pl., Rockville, MD 20855–2764. Form FDA 2301 may be obtained on the FDA website, by telephoning CVM's Division of Surveillance (HFV–210), or by submitting a written request to the following address: Food and Drug Administration, Center for Veterinary Medicine, Division of Surveillance (HFV–210), 7500 Standish Pl., Rockville, MD 20855–2764.

(e) *Records to be maintained.* The applicants and nonapplicants must maintain records and reports of all information required by this section for a period of 5 years after the date of submission.

(f) *Access to records and reports.* The applicant and nonapplicant must, upon request from any authorized FDA officer or employee, at all reasonable times, permit such officer or employee to have access to copy and to verify all such required records and reports.

(g) *Mailing addresses.* Three-day alert reports must be submitted to the appropriate FDA District Office or local FDA resident post. Addresses for District Offices and resident posts may be obtained on the FDA website. Other reports not required to be submitted to FDA in electronic format must be submitted to the following address: Food and Drug Administration, Center for Veterinary Medicine, Document Control Unit (HFV–199), 7500 Standish Pl., Rockville, MD 20855–2764.

(h) *Withdrawal of approval.* If FDA finds that the applicant has failed to establish the required records, or has failed to maintain those records, or failed to make the required reports, or has refused access to an authorized FDA officer or employee to copy or to verify such records or reports, FDA may withdraw approval of the application to which such records or reports relate. If FDA determines that withdrawal of the approval is necessary, the agency shall give the applicant notice and opportunity for hearing, as provided in § 514.200, on the question of whether to withdraw approval of the application.

(i) *Disclaimer.* Any report or information submitted under this section and any release of that report or information by FDA will be without prejudice and does not necessarily reflect a conclusion that the report or information constitutes an admission that the drug caused or contributed to an adverse event. A person need not admit, and may deny, that the report or information constitutes an admission that a

drug caused or contributed to an adverse event.

[68 FR 15365, Mar. 31, 2003, as amended at 81 FR 29141, May 11, 2016; 85 FR 45512, July 29, 2020]

§ 514.87 Annual reports for antimicrobial animal drug sales and distribution.

(a) The applicant for each new animal drug product approved under section 512 of the Federal Food, Drug, and Cosmetic Act, or conditionally approved under section 571 of the Federal Food, Drug, and Cosmetic Act, and containing an antimicrobial active ingredient, must submit an annual report to FDA on the amount of each such antimicrobial active ingredient in the drug that is sold or distributed in the reporting year for use in food-producing animal species, including information on any distributor-labeled product.

(b) This report must identify the approved or conditionally approved application and must include the following information for each new animal drug product described in paragraph (a) of this section:

(1) A listing of each antimicrobial active ingredient contained in the product;

(2) A description of each product sold or distributed by unit, including the container size, strength, and dosage form of such product units;

(3) For each such product, a listing of the target animal species, indications, and production classes that are specified on the approved label;

(4) For each such product, the number of units sold or distributed in the United States (*i.e.,* domestic sales) for each month of the reporting year; and

(5) For each such product, the number of units sold or distributed outside the United States (*i.e.,* quantities exported) for each month of the reporting year.

(c) Each report must also provide a species-specific estimate of the percentage of each product described in paragraph (b)(2) of this section that was sold or distributed domestically in the reporting year for use in any of the following animal species categories, but only for such species that appear on the approved label: Cattle, swine, chickens, turkeys. The total of the species-specific percentages reported for each product must account for 100 percent of its sales and distribution; therefore, a fifth category of ''other species/unknown'' must also be reported.

(d) Each report must:

(1) Be submitted not later than March 31 each year;

(2) Cover the period of the preceding calendar year; and

(3) Be submitted using Form FDA 3744, ''Antimicrobial Animal Drug Distribution Report.''

(e) Sales and distribution data and information reported under this section will be considered to fall within the exemption for confidential commercial information established in § 20.61 of this chapter and will not be publicly disclosed, except that summary reports of such information aggregated in such a way that does not reveal information that is not available for public disclosure under this provision will be prepared by FDA and made available to the public as provided in paragraph (f) of this section.

(f) FDA will publish an annual summary report of the data and information it receives under this section for each calendar year by December 31 of the following year. Such annual reports must include a summary of sales and distribution data and information by antimicrobial drug class and may include additional summary data and information as determined by FDA. In order to protect confidential commercial information, each individual datum appearing in the summary report must:

(1) Reflect combined product sales and distribution data and information obtained from three or more distinct sponsors of approved products that were actively sold or distributed that reporting year, and

(2) Be reported in a manner consistent with protecting both national security and confidential commercial information.

[81 FR 29141, May 11, 2016]

§ 514.100 Evaluation and comment on applications.

(a) After the filed application has been evaluated, the applicant will be

furnished written comment on any apparent deficiencies in the application.

(b) When the description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug appears adequate on its face, but it is not feasible to reach a conclusion as to the safety and effectiveness of the new animal drug solely from consideration of this description, the applicant may be notified that an establishment inspection is required to verify their adequacy.

(c) A request for samples of a new animal drug or any edible tissues and byproducts of animals treated with such a drug, shall specify the quantity deemed adequate to permit tests of analytical methods to determine their adequacy for regulatory purposes. The request should be made as early in the 180-day period as possible to assure timely completion. The date used for computing the 180-day limit for the purposes of section 512(c) of the act shall be moved forward 1 day for each day after the mailing date of the request until all of the requested samples are received. If the samples are not received within 90 days after the request, the application will be considered withdrawn without prejudice.

(d) The information contained in an application may be insufficient to determine whether a new animal drug is safe or effective in use if it fails to include (among other things) a statement showing whether such drug is to be limited to prescription sale and exempt under section 502(f) of the act from the requirement that its labeling bear adequate directions for lay use. If such drug is to be exempt, the information may also be insufficient if:

(1) The specimen labeling proposed fails to bear adequate information for professional use including indications, effects, dosages, routes, methods, and frequency and duration of administration and any relevant hazards, contraindications, side effects, and precautions under which practitioners licensed by law to administer such drug can use the drug for the purposes for which it is intended, including all purposes for which it is to be advertised, or represented, in accordance with § 201.105 of this chapter, and information concerning hazards, contraindications, side effects, and precautions relevant with respect to any uses for which such drug is to be prescribed.

(2) The application fails to show that the labeling and advertising of such drug will offer the drug for use only under those conditions for which it is offered in the labeling that is part of the application.

(3) The application fails to show that all labeling that furnishes or purports to furnish information for professional use of such drug will contain, in the same language and emphasis, the information for use including indications, effects, dosages, routes, methods, and frequency and duration of administration and any relevant warnings, hazards, contraindications, side effects, and precautions, which is contained in the labeling that is part of the application in accordance with § 201.105 of this chapter.

(e) The information contained in an application will be considered insufficient to determine whether a new animal drug is safe and effective for use when there is a refusal or failure upon written notice to furnish inspectors authorized by the Food and Drug Administration an adequate opportunity to inspect the facilities, controls, and records pertinent to the application.

(f) On the basis of preliminary consideration of an application or supplemental application containing typewritten or other draft labeling in lieu of final printed labeling, an applicant may be informed that such application is approvable when satisfactory final printed labeling identical in content to such draft copy is submitted.

(g) When an application has been found incomplete on the basis of a need for the kind of information described in § 514.6, such application shall be considered withdrawn without prejudice to future filing on the date of issuance of the letter citing the inadequacies contained in the application, unless within 30 days the sponsor chooses to avail himself of the opportunity for hearing as prescribed by § 514.111.

§ 514.105 Approval of applications.

(a) The Commissioner shall forward for publication in the FEDERAL REGISTER a regulation prescribing the conditions under which the new animal drug may be used, including the name and address of the applicant; the conditions and indications for use covered by the application; any tolerance, withdrawal period, or other use restrictions; any tolerance required for the new animal drug substance or its metabolites in edible products of food-producing animals; and, if such new animal drug is intended for use in animal feed, appropriate purposes and conditions of use (including special labeling requirements) applicable to any animal feed; and such other information the Commissioner deems necessary to assure safe and effective use.

(b) He shall notify the applicant by sending him a copy of the proposed publication as described in paragraph (a)(1) of this section.

[40 FR 13825, Mar. 27, 1975, as amended at 51 FR 7392, Mar. 3, 1986; 64 FR 63203, Nov. 19, 1999]

§ 514.106 Approval of supplemental applications.

(a) Within 180 days after a supplement to an approved application is filed pursuant to § 514.8, the Commissioner shall approve the supplemental application in accordance with procedures set forth in § 514.105(a)(1) and (2) if he/she determines that the application satisfies the requirements of applicable statutory provisions and regulations.

(b) The Commissioner will assign a supplemental application to its proper category to ensure processing of the application.

(1) *Category I.* Supplements that ordinarily do not require a reevaluation of any of the safety or effectiveness data in the parent application. Category I supplements include the following:

(i) A corporate change that alters the identity or address of the sponsor of the new animal drug application (NADA).

(ii) The sale, purchase, or construction of manufacturing facilities.

(iii) The sale or purchase of an NADA.

(iv) A change in container, container style, shape, size, or components.

(v) A change in approved labeling (color, style, format, addition, deletion, or revision of certain statements, e.g., trade name, storage, expiration dates, etc).

(vi) A change in promotional material for a prescription new animal drug not exempted by § 514.8(c)(2)(i)(C)(*1*) through (c)(2)(i)(C)(*3*).

(vii) Changes in manufacturing processes that do not alter the method of manufacture or change the final dosage form.

(viii) A change in bulk drug shipments.

(ix) A change in an analytical method or control procedures that do not alter the approved standards.

(x) A change in an expiration date.

(xi) Addition of an alternate manufacturer, repackager, or relabeler of the drug product.

(xii) Addition of an alternate supplier of the new drug substance.

(xiii) A change permitted in advance of approval as described under § 514.8(b)(3).

(2) *Category II.* Supplements that may require a reevaluation of certain safety or effectiveness data in the parent application. Category II supplements include the following:

(i) A change in the active ingredient concentration or composition of the final product.

(ii) A change in quality, purity, strength, and identity specifications of the active or inactive ingredients.

(iii) A change in dose (amount of drug administered per dose).

(iv) A change in the treatment regimen (schedule of dosing).

(v) Addition of a new therapeutic claim to the approved uses of the product.

(vi) Addition of a new or revised animal production claim.

(vii) Addition of a new species.

(viii) A change in the prescription or over-the-counter status of a drug product.

(ix) A change in statements regarding side effects, warnings, precautions, and contraindications, except the addition of approved statements to container, package, and promotional labeling, and prescription drug advertising.

(x) A change in the drug withdrawal period prior to slaughter or in the milk discard time.

(xi) A change in the tolerance for drug residues.

(xii) A change in analytical methods for drug residues.

(xiii) A revised method of synthesis or fermentation of the new drug substance.

(xiv) Updating or changes in the manufacturing process of the new drug substance and/or final dosage form (other than a change in equipment that does not alter the method of manufacture of a new animal drug, or a change from one commercial batch size to another without any change in manufacturing procedure), or changes in the methods, facilities, or controls used for the manufacture, processing, packaging, or holding of the new animal drug (other than use of an establishment not covered by the approval that is in effect) that give increased assurance that the drug will have the characteristics of identity, strength, quality, and purity which it purports or is represented to possess.

[55 FR 46052, Nov. 1, 1990; 55 FR 49973, Dec. 3, 1990; 56 FR 12422, Mar. 25, 1991, as amended at 71 FR 74785, Dec. 13, 2006]

§ 514.110 Reasons for refusing to file applications.

(a) The date of receipt of an application for a new animal drug shall be the date on which the application shall be deemed to be filed.

(b) An application for a new animal drug shall not be considered acceptable for filing for any of the following reasons:

(1) It does not contain complete and accurate English translations of any pertinent part in a foreign language.

(2) Fewer than three copies are submitted.

(3) It is incomplete on its face in that it is not properly organized and indexed.

(4) On its face the information concerning required matter is so inadequate that the application is clearly not approvable.

(5) The new animal drug is to be manufactured, prepared, propagated, compounded, or processed in whole or in part in any State in an establishment that has not been registered or exempted from registration under the provisions of section 510 of the act.

(6) The sponsor does not reside or maintain a place of business within the United States and the application has not been countersigned by an attorney, agent, or other representative of the applicant, which representative resides in the United States and has been duly authorized to act on behalf of the applicant and to receive communications on all matters pertaining to the application.

(7) The new animal drug is a drug subject to licensing under the animal virus, serum, and toxin law of March 4, 1913 (37 Stat. 832; 21 U.S.C. 151 *et seq.*). Such applications will be referred to the U.S. Department of Agriculture for action.

(8) It fails to include, with respect to each nonclinical laboratory study contained in the application, either a statement that the study was conducted in compliance with the good laboratory practice regulations set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a brief statement of the reasons for the noncompliance.

(9) [Reserved]

(10) The applicant fails to submit a complete environmental assessment under § 25.40 of this chapter or fails to provide sufficient information to establish that the requested action is subject to categorical exclusion under § 25.30 or § 25.33 of this chapter.

(c) If an application is determined not to be acceptable for filing, the applicant shall be notified within 30 days of receipt of the application and shall be given the reasons therefore.

(d) If the applicant disputes the findings that his application is not acceptable for filing, he may make written request that the application be filed over protest, in which case it will be filed as of the day originally received.

[40 FR 13825, Mar. 27, 1975, as amended at 50 FR 7517, Feb. 22, 1985; 50 FR 16668, Apr. 26, 1985; 62 FR 40600, July 29, 1997]

§ 514.111 Refusal to approve an application.

(a) The Commissioner shall, within 180 days after the filing of the application, inform the applicant in writing of his intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application, if the Commissioner determines upon the basis of the application, or upon the basis of other information before him with respect to a new animal drug, that:

(1) The reports of investigations required to be submitted pursuant to section 512(b) of the act do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; or

(2) The results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; or

(3) The methods used in and the facilities and controls used for the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; or

(4) Upon the basis of the information submitted to the Food and Drug Administration as part of the application, or upon the basis of any other information before it with respect to such drug, it has insufficient information to determine whether such drug is safe for use under such conditions. In making this determination the Commissioner shall consider, among other relevant factors:

(i) The probable consumption of such drug and of any substance formed in or on food because of the use of such drug;

(ii) The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substances;

(iii) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data; and

(iv) Whether the conditions of use prescribed, recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice; or

(5) Evaluated on the basis of information submitted as part of the application and any other information before the Food and Drug Administration with respect to such drug, there is lack of substantial evidence as defined in § 514.4.

(6) Failure to include an appropriate proposed tolerance for residues in edible products derived from animals or a withdrawal period or other restrictions for use of such drug if any tolerance or withdrawal period or other restrictions for use are required in order to assure that the edible products derived from animals treated with such drug will be safe.

(7) Based on a fair evaluation of all material facts, the labeling is false or misleading in any particular; or

(8) Such drug induces cancer when ingested by man or animal or, after appropriate tests for evaluation of the safety of such drug, induces cancer in man or animal, except that this subparagraph shall not apply with respect to such drug if the Commissioner finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice:

(i) Such drug will not adversely affect the animal for which it is intended; and

(ii) No residue of such drug will be found (by methods of examination prescribed or approved by the Commissioner by regulations) in any edible portion of such animal after slaughter or in any food yielded by, or derived from the living animals.

(9) The applicant fails to submit an adequate environmental assessment under § 25.40 of this chapter or fails to provide sufficient information to establish that the requested action is subject to categorical exclusion under § 25.30 or § 25.33 of this chapter.

(10) The drug fails to satisfy the requirements of subpart E of part 500 of this chapter.

(11) Any nonclinical laboratory study that is described in the application and that is essential to show that the drug is safe for use under the conditions prescribed, recommended, or suggested in its proposed labeling, was not conducted in compliance with the good

laboratory practice regulations as set forth in part 58 of this chapter and no reason for the noncompliance is provided or, if it is, the differences between the practices used in conducting the study and the good laboratory practice regulations do not support the validity of the study.

(12) The drug will be produced in whole or in part in an establishment that is not registered and not exempt from registration under section 510 of the Federal Food, Drug, and Cosmetic Act and part 207 of this chapter.

(b) The Commissioner, as provided in § 514.200 of this chapter, shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable, unless by the 30th day following the date of issuance of the letter informing the applicant of the intention to issue a notice of opportunity for a hearing the applicant:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing.

[40 FR 13825, Mar. 27, 1975, as amended at 43 FR 22675, May 26, 1978; 44 FR 16007, Mar. 16, 1979; 50 FR 7517, Feb. 22, 1985; 50 FR 16668, Apr. 26, 1985; 52 FR 49588, Dec. 31, 1987; 54 FR 18280, Apr. 28, 1989; 62 FR 40600, July 29, 1997; 63 FR 10770, Mar. 5, 1998; 64 FR 40757, July 28, 1999; 64 FR 63204, Nov. 19, 1999; 81 FR 60221, Aug. 31, 2016]

§ 514.115 Withdrawal of approval of applications.

(a) The Secretary may suspend approval of an application approved pursuant to section 512(c) of the act and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing on a finding that there is an imminent hazard to the health of man or of the animals for which such new animal drug or animal feed is intended.

(b) The Commissioner shall notify in writing the person holding an application approved pursuant to section 512(c) of the act and afford an opportunity for a hearing on a proposal to withdraw approval of such application if he finds:

(1) That the application contains any untrue statement of a material fact; or

(2) That the applicant has made any changes from the standpoint of safety or effectiveness beyond the variations provided for in the application unless he has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application, or such changes are those for which written authorization or approval is not required as provided for in § 514.8. The supplemental application shall be treated in the same manner as the original application.

(3) That in the case of an application for use of a new animal drug approved or deemed approved pursuant to section 512(c) of the act:

(i) Experience or scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the application was approved; or

(ii) New evidence not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved or that section 512(d)(1)(H) of the act applies to such drug; or

(iii) On the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

(4) That any nonclinical laboratory study that is described in the application and that is essential to show that the drug is safe for use under the conditions prescribed, recommended, or suggested in its proposed labeling, was not conducted in compliance with the good laboratory practice regulations as set forth in part 58 of this chapter and no

reason for the noncompliance is provided or, if it is, the differences between the practices used in conducting the study and the good laboratory practice regulations do not support the validity of the study.

(c) The Commissioner may notify in writing the person holding an application approved pursuant to section 512(c) of the act and afford an opportunity for a hearing on a proposal to withdraw approval of such application if he finds:

(1) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under section 512(l)(1) of the act, or the applicant has refused to permit access to, or copying, or verification of, such records as required by section 512(l)(2) of the act; or

(2) That on the basis of new information before him evaluated together with the evidence before him when the application was approved, the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of such drug or animal feed are inadequate to assure and preserve its identity, strength, quality, and purity and were not made adequate within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

(3) That on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such drug, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

(d) Approval of an application pursuant to section 512(c) of the act will be withdrawn on the basis of a request for its withdrawal submitted in writing by a person holding an approved new animal drug application on the grounds that the drug subject to such application is no longer being marketed and information is included in support of this finding, provided none of the conditions cited in paragraphs (a), (b), and (c) of this section pertain to the subject drug. A written request for such withdrawal shall be construed as a waiver of the opportunity for a hearing as otherwise provided for in this section. Withdrawal of approval of an application under the provisions of this paragraph shall be without prejudice.

(e) On the basis of the withdrawal of approval of an application for a new animal drug approved pursuant to section 512(c) of the act, the regulation published pursuant to section 512(i) of the act covering the conditions of use of such drug as provided for in the application shall be revoked.

[40 FR 13825, Mar. 27, 1975, as amended at 50 FR 7517, Feb. 22, 1985; 64 FR 63204, Nov. 19, 1999]

§514.116 Notice of withdrawal of approval of application.

When an approval of an application submitted pursuant to section 512 of the act is withdrawn by the Commissioner, he will give appropriate public notice of such action by publication in the FEDERAL REGISTER.

§514.117 Adequate and well-controlled studies.

(a) *Purpose.* The primary purpose of conducting adequate and well-controlled studies of a new animal drug is to distinguish the effect of the new animal drug from other influences, such as spontaneous change in the course of the disease, normal animal production performance, or biased observation. One or more adequate and well-controlled studies are required to establish, by substantial evidence, that a new animal drug is effective. The characteristics described in paragraph (b) of this section have been developed over a period of years and are generally recognized as the essentials of an adequate and well-controlled study. Well controlled, as used in the phrase adequate and well controlled, emphasizes an important aspect of adequacy. The Food and Drug Administration (FDA) considers these characteristics in determining whether a study is adequate and well controlled for purposes of section 512 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b). Adequate and well-controlled studies,

in addition to providing a basis for determining whether a new animal drug is effective, may also be relied upon to support target animal safety. The report of an adequate and well-controlled study should provide sufficient details of study design, conduct, and analysis to allow critical evaluation and a determination of whether the characteristics of an adequate and well-controlled study are present.

(b) *Characteristics.* An adequate and well-controlled study has the following characteristics:

(1) The protocol for the study (protocol) and the report of the study results (study report) must include a clear statement of the study objective(s).

(2) The study is conducted in accordance with an appropriate standard of conduct that addresses, among other issues, study conduct, study personnel, study facilities, and study documentation. The protocol contains a statement acknowledging the applicability of, and intention to follow, a standard of conduct acceptable to FDA. The study report contains a statement describing adherence to the standard.

(3) The study is conducted with a new animal drug that is produced in accordance with appropriate manufacturing practices, which include, but are not necessarily limited to, the manufacture, processing, packaging, holding, and labeling of the new animal drug such that the critical characteristics of identity, strength, quality, purity, and physical form of the new animal drug are known, recorded, and reproducible, to permit meaningful evaluations of and comparisons with other studies conducted with the new animal drug. The physical form of a new animal drug includes the formulation and physical characterization (including delivery systems thereof, if any) of the new animal drug as presented to the animal. The protocol and study report must include an identification number which can be correlated with the specific formulation and production process used to manufacture the new animal drug used in the study.

(4) The study uses a design that permits a valid comparison with one or more controls to provide a quantitative evaluation of drug effects. The protocol and the study report must describe the precise nature of the study design, e.g., duration of treatment periods, whether treatments are parallel, sequential, or crossover, and the determination of sample size. Within the broad range of studies conducted to support a determination of the effectiveness of a new animal drug, certain of the controls listed below would be appropriate and preferred depending on the study conducted:

(i) *Placebo concurrent control.* The new animal drug is compared with an inactive preparation designed to resemble the new animal drug as far as possible.

(ii) *Untreated concurrent control.* The new animal drug is compared with the absence of any treatment. The use of this control may be appropriate when objective measurements of effectiveness, not subject to observer bias, are available.

(iii) *Active treatment concurrent control.* The new animal drug is compared with known effective therapy. The use of this control is appropriate when the use of a placebo control or of an untreated concurrent control would unreasonably compromise the welfare of the animals. Similarity of the new animal drug and the active control drug can mean either that both drugs were effective or that neither was effective. The study report should assess the ability of the study to have detected a difference between treatments. The evaluation of the study should explain why the new animal drugs should be considered effective in the study, for example, by reference to results in previous placebo-controlled studies of the active control.

(iv) *Historical control.* The results of treatment with the new animal drug are quantitatively compared with experience historically derived from the adequately documented natural history of the disease or condition, or with a regimen (therapeutic, diagnostic, prophylactic) whose effectiveness is established, in comparable animals. Because historical control populations usually cannot be as well assessed with respect to pertinent variables as can concurrent control populations, historical control designs are usually reserved for special circumstances. Examples include studies in which the effect of the

new animal drug is self-evident or studies of diseases with high and predictable mortality, or signs and symptoms of predictable duration or severity, or, in the case of prophylaxis, predictable morbidity.

(5) The study uses a method of selecting animals that provides adequate assurances that the animals are suitable for the purposes of the study. For example, the animals can reasonably be expected to have animal production characteristics typical of the class(es) of animals for which the new animal drug is intended, there is adequate assurance that the animals have the disease or condition being studied, or, in the case of prophylactic agents, evidence of susceptibility and exposure to the condition against which prophylaxis is desired has been provided. The protocol and the study report describe the method of selecting animals for the study.

(6) The study uses a method to assign a treatment or a control to each experimental unit of animals that is random and minimizes bias. Experimental units of animals are groups of animals that are comparable with respect to pertinent variables such as age, sex, class of animal, severity of disease, duration of disease, dietary regimen, level of animal production, and use of drugs or therapy other than the new animal drug. The protocol and the study report describe the method of assignment of animals to an experimental unit to account for pertinent variables and method of assignment of a treatment or a control to the experimental units. When the effect of such variables is accounted for by an appropriate design, and when, within the same animal, effects due to the test drug can be obtained free of the effects of such variables, the same animal may be used for both the test drug and the control using the controls set forth in paragraph (b)(4) of this section.

(7) The study uses methods to minimize bias on the part of observers and analysts of the data that are adequate to prevent undue influences on the results and interpretation of the study data. The protocol and study report explain the methods of observation and recording of the animal response variables and document the methods, such as ''blinding'' or ''masking,'' used in the study for excluding or minimizing bias in the observations.

(8) The study uses methods to assess animal response that are well defined and reliable. The protocol and study report describe the methods for conducting the study, including any appropriate analytical and statistical methods, used to collect and analyze the data resulting from the conduct of the study, describe the criteria used to assess response, and, when appropriate, justify the selection of the methods to assess animal response.

(9) There is an analysis and evaluation of the results of the study in accord with the protocol adequate to assess the effects of the new animal drug. The study report evaluates the methods used to conduct, and presents and evaluates the results of, the study as to their adequacy to assess the effects of the new animal drug. This evaluation of the results of the study assesses, among other items, the comparability of treatment and control groups with respect to pertinent variables and the effects of any interim analyses performed.

(c) *Field studies.* (1) Field conditions as used in this section refers to conditions which closely approximate the conditions under which the new animal drug, if approved, is intended to be applied or administered.

(2) Studies of a new animal drug conducted under field conditions shall, consistent with generally recognized scientific principles and procedures, use an appropriate control that permits comparison, employ procedures to minimize bias, and have the characteristics generally described in paragraph (b) of this section. However, because field studies are conducted under field conditions, it is recognized that the level of control over some study conditions need not or should not be the same as the level of control in laboratory studies. While not all conditions relating to a field study need to be or should be controlled, observations of the conditions under which the new animal drug is tested shall be recorded in sufficient detail to permit evaluation of the study. Adequate and well-controlled field studies shall balance the need to control study conditions

with the need to observe the true effect of the new animal drug under closely approximated actual use conditions.

(d) *Waiver.* The Director of the Center for Veterinary Medicine (the Director) may, on the Director's own initiative or on the petition of an interested person, waive in whole or in part any of the criteria in paragraph (b) of this section with respect to a specific study. A petition for a waiver is required to set forth clearly and concisely the specific criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular study, what alternative procedures, if any, are to be, or have been employed, and what results have been obtained. The petition is also required to state why the studies so conducted will yield, or have yielded, substantial evidence of effectiveness, notwithstanding nonconformance with the criteria for which waiver is requested.

(e) *Uncontrolled studies.* Uncontrolled studies or partially controlled studies are not acceptable as the sole basis for the approval of claims of effectiveness or target animal safety. Such studies, carefully conducted and documented, may provide corroborative support of adequate and well-controlled studies regarding effectiveness and may yield valuable data regarding safety of the new animal drug. Such studies will be considered on their merits in light of the characteristics listed here. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered.

[63 FR 10770, Mar. 5, 1998]

§ 514.120 Revocation of order refusing to approve an application or suspending or withdrawing approval of an application.

The Commissioner, upon his own initiative or upon request of an applicant stating reasonable grounds therefor and if he finds that the facts so require, may issue an order approving an application that previously has had its approval refused, suspended, or withdrawn.

§ 514.121 Service of notices and orders.

All notices and orders under this subchapter E and section 512 of the act pertaining to new animal drug applications shall be served:

(a) In person by any officer or employee of the Department designated by the Commissioner; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in the records of the Food and Drug Administration.

Subpart C—Hearing Procedures

§ 514.200 Notice of opportunity for hearing; notice of participation and requests for hearing; grant or denial of hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner to refuse to approve an application or to withdraw the approval of an application will be published in the FEDERAL REGISTER together with an explanation of the grounds for the proposed action. The notice will describe how to request a hearing. An applicant has 30 days after publication of the notice to request a hearing.

(b) If the applicant fails to request a hearing within the 30-day timeframe, the Commissioner, without further notice, will publish a final order denying or withdrawing approval of the application.

(c) If the applicant desires to request a hearing:

(1) Within 30 days after publication of the notice of opportunity for hearing, the applicant must submit to the Division of Dockets Management written objections and a request for a hearing in accordance with §§ 12.20 and 12.22. This request for a hearing must include each specific objection to the proposal on which a hearing is requested, together with a detailed description and analysis of the factual information (including all relevant clinical and other investigational data) the applicant will present in support of that objection. A request for a hearing may not rest upon mere allegations or denials or general descriptions of positions or contentions, but must set forth specific reliable evidence showing there is a genuine and substantial issue of fact that requires a hearing.

(2) If the Commissioner determines upon review of the data and information submitted in the objections and request for a hearing that a hearing is not justified because no genuine and substantial issue of fact precludes the refusal to approve the application or the withdrawal of approval of the application (for example, the applicant has not identified any adequate and well-controlled clinical investigations to support the claims of effectiveness), the Commissioner will enter an order denying the hearing and stating the final findings and conclusions.

(3) If the Commissioner determines upon review of the data and information submitted in the objections and request for a hearing that a hearing is justified, the Commissioner will publish a notice setting forth the following:

(i) The regulation or order that is the subject of the hearing;

(ii) A statement specifying any part of the regulation or order that has been stayed by operation of law or in the Commissioner's discretion;

(iii) The parties to the hearing;

(iv) The specific issues of fact for resolution at the hearing;

(v) The presiding officer, or a statement that the presiding officer will be designated in a later notice; and

(vi) The date, time, and place of the prehearing conference, or a statement that the date, time, and place will be announced in a later notice. However, in the case of a denial of approval, the hearing must not occur more than 90 days after expiration of the 30-day time period in which to request a hearing, unless the presiding officer and the applicant otherwise agree; and in the case of withdrawal of approval, the hearing will occur as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in the request for a hearing.

[81 FR 52997, Aug. 11, 2016]

§ 514.201 Procedures for hearings.

Hearings relating to new animal drugs under section 512(d) and (e) of the act shall be governed by part 12 of this chapter.

[64 FR 63204, Nov. 19, 1999]

Subparts D–E [Reserved]

Subpart F—Judicial Review

§ 514.235 Judicial review.

(a) The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order without a hearing pursuant to §314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product, as defined in §310.6 of this chapter, in a United States court of appeals pursuant to section 505(h) of the act.

[42 FR 4717, Jan. 25, 1977]

PART 515—MEDICATED FEED MILL LICENSE

Subpart A—Applications

Sec.

Subpart B—Administrative Actions on Licenses