

should be considered in selecting or modifying antibacterial therapy. In the absence of such data, local epidemiology and susceptibility patterns may contribute to the empiric selection of therapy.

(c) In the “Precautions” section, under the “General” subsection, the labeling must state:

Prescribing (*insert name of antibacterial drug product*) in the absence of a proven or strongly suspected bacterial infection or a prophylactic indication is unlikely to provide benefit to the patient and increases the risk of the development of drug-resistant bacteria.

(d) In the “Precautions” section, under the “Information for Patients” subsection, the labeling must state:

Patients should be counseled that antibacterial drugs including (*insert name of antibacterial drug product*) should only be used to treat bacterial infections. They do not treat viral infections (e.g., the common cold). When (*insert name of antibacterial drug product*) is prescribed to treat a bacterial infection, patients should be told that although it is common to feel better early in the course of therapy, the medication should be taken exactly as directed. Skipping doses or not completing the full course of therapy may (1) decrease the effectiveness of the immediate treatment and (2) increase the likelihood that bacteria will develop resistance and will not be treatable by (*insert name of antibacterial drug product*) or other antibacterial drugs in the future.

[68 FR 6081, Feb. 6, 2003]

#### § 201.25 Bar code label requirements.

(a) *Who is subject to these bar code requirements?* Manufacturers, repackers, relabelers, and private label distributors of a human prescription drug product or an over-the-counter (OTC) drug product that is regulated under the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act are subject to these bar code requirements unless they are exempt from the registration and drug listing requirements in section 510 of the Federal Food, Drug, and Cosmetic Act.

(b) *What drugs are subject to these bar code requirements?* The following drug products are subject to the bar code label requirements:

(1) Prescription drug products, however:

(i) The bar code requirement does not apply to the following entities:

- (A) Prescription drug samples;
- (B) Allergenic extracts;
- (C) Intrauterine contraceptive devices regulated as drugs;
- (D) Medical gases;
- (E) Radiopharmaceuticals; and
- (F) Low-density polyethylene form fill and seal containers that are not packaged with an overwrap.

(ii) The bar code requirement does not apply to prescription drugs sold by a manufacturer, repacker, relabeler, or private label distributor directly to patients, but versions of the same drug product that are sold to or used in hospitals are subject to the bar code requirements.

(2) Biological products; and

(3) OTC drug products that are dispensed pursuant to an order and are commonly used in hospitals. For purposes of this section, an OTC drug product is “commonly used in hospitals” if it is packaged for hospital use, labeled for hospital use (or uses similar terms), or marketed, promoted, or sold to hospitals.

(c) *What does the bar code look like? Where does the bar code go?* (1) Each drug product described in paragraph (b) of this section must have a bar code that contains, at a minimum, the appropriate National Drug Code (NDC) number in a linear bar code that meets European Article Number/Uniform Code Council (EAN.UCC) or Health Industry Business Communications Council (HIBCC) standards. Additionally, the bar code must:

(i) Be surrounded by sufficient blank space so that the bar code can be scanned correctly; and

(ii) Remain intact under normal conditions of use.

(2) The bar code must appear on the drug’s label as defined by section 201(k) of the Federal Food, Drug, and Cosmetic Act.

(d) *Can a drug be exempted from the bar code requirement?* (1) On our own initiative, or in response to a written request from a manufacturer, repacker, relabeler or private label distributor, we may exempt a drug product from the bar code label requirements set forth in this section. The exemption request must document why:

(i) compliance with the bar code requirement would adversely affect the

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safety, effectiveness, purity or potency of the drug or not be technologically feasible, and the concerns underlying the request could not reasonably be addressed by measures such as package redesign or use of overwraps; or

(ii) an alternative regulatory program or method of product use renders the bar code unnecessary for patient safety.

(2) Requests for an exemption should be sent to the Office of New Drugs (HFD-020), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (requests involving a drug product) or to the Office of Compliance and Biologics Quality (HFM-600), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852 (requests involving a biological product).

[69 FR 9170, Feb. 26, 2004]

**§ 201.26 Exceptions or alternatives to labeling requirements for human drug products held by the Strategic National Stockpile.**

(a) The appropriate FDA Center Director may grant an exception or alternative to any provision listed in paragraph (f) of this section and not explicitly required by statute, for specified lots, batches, or other units of a human drug product, if the Center Director determines that compliance with such labeling requirement could adversely affect the safety, effectiveness, or availability of such product that is or will be included in the Strategic National Stockpile.

(b)(1)(i) A Strategic National Stockpile official or any entity that manufactures (including labeling, packing, relabeling, or repackaging), distributes, or stores a human drug product that is or will be included in the Strategic National Stockpile may submit, with written concurrence from a Strategic National Stockpile official, a written request for an exception or alternative described in paragraph (a) of this section to the Center Director.

(ii) The Center Director may grant an exception or alternative described in paragraph (a) of this section on his or her own initiative.

(2) A written request for an exception or alternative described in paragraph (a) of this section must:

(i) Identify the specified lots, batches, or other units of the human drug product that would be subject to the exception or alternative;

(ii) Identify the labeling provision(s) listed in paragraph (f) of this section that are the subject of the exception or alternative request;

(iii) Explain why compliance with such labeling provision(s) could adversely affect the safety, effectiveness, or availability of the specified lots, batches, or other units of a human drug product that are or will be held in the Strategic National Stockpile;

(iv) Describe any proposed safeguards or conditions that will be implemented so that the labeling of the product includes appropriate information necessary for the safe and effective use of the product, given the anticipated circumstances of use of the product;

(v) Provide a draft of the proposed labeling of the specified lots, batches, or other units of the human drug product subject to the exception or alternative; and

(vi) Provide any other information requested by the Center Director in support of the request.

(c) The Center Director must respond in writing to all requests under this section.

(d) A grant of an exception or alternative under this section will include any safeguards or conditions deemed appropriate by the Center Director so that the labeling of product subject to the exception or alternative includes the information necessary for the safe and effective use of the product, given the anticipated circumstances of use.

(e) If you are a sponsor receiving a grant of a request for an exception or alternative to the labeling requirements under this section:

(1) You need not submit a supplement under § 314.70(a) through (c) or § 601.12(f)(1) through (f)(2) of this chapter; however,

(2) You must report any grant of a request for an exception or alternative under this section as part of your annual report under §§ 314.70(d) or 601.12(f)(3) of this chapter.