(*1*) A description of any pediatric subpopulations (neonates, infants, children, adolescents) that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

(*2*) The number of affected pediatric patients.

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§ 814.37 PMA amendments and resubmitted PMA's.

(a) An applicant may amend a pending PMA or PMA supplement to revise existing information or provide additional information.

(b) FDA may request the applicant to amend a PMA or PMA supplement with any information regarding the device that is necessary for FDA or the appropriate advisory committee to complete the review of the PMA or PMA supplement.

(c) A PMA amendment submitted to FDA shall include the PMA or PMA supplement number assigned to the original submission and, if submitted on the applicant's own initiative, the reason for submitting the amendment. FDA may extend the time required for its review of the PMA, or PMA supplement, as follows:

(1) If the applicant on its own initiative or at FDA's request submits a major PMA amendment (e.g., an amendment that contains significant new data from a previously unreported study, significant updated data from a previously reported study, detailed new analyses of previously submitted data, or significant required information previously omitted), the review period may be extended up to 180 days.

(2) If an applicant declines to submit a major amendment requested by FDA, the review period may be extended for the number of days that elapse between the date of such request and the date that FDA receives the written response declining to submit the requested amendment.

(d) An applicant may on its own initiative withdraw a PMA or PMA supplement. If FDA requests an applicant to submit a PMA amendment and a written response to FDA's request is not received within 180 days of the date of the request, FDA will consider the pending PMA or PMA supplement to be withdrawn voluntarily by the applicant.

(e) An applicant may resubmit a PMA or PMA supplement after withdrawing it or after it is considered withdrawn under paragraph (d) of this section, or after FDA has refused to accept it for filing, or has denied approval of the PMA or PMA supplement. A resubmitted PMA or PMA supplement shall comply with the requirements of §814.20 or §814.39, respectively, and shall include the PMA number assigned to the original submission and the applicant's reasons for resubmission of the PMA or PMA supplement.

EFFECTIVE DATE NOTE: At 75 FR 16351, Apr. 1, 2010, §814.37 was amended by revising the section heading and paragraph (b), effective Aug. 16, 2010. For the convenience of the user, the revised text is set forth as follows:

§ 814.37 PMA amendments and resubmitted PMAs.

* * * * *

(b)(1) FDA may request the applicant to amend a PMA or PMA supplement with any information regarding the device that is necessary for FDA or the appropriate advisory committee to complete the review of the PMA or PMA supplement.

(2) FDA may request the applicant to amend a PMA or PMA supplement with information concerning pediatric uses as required under §814.20(b)(3)(i).

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§ 814.39 PMA supplements.

(a) After FDA's approval of a PMA, an applicant shall submit a PMA supplement for review and approval by FDA before making a change affecting the safety or effectiveness of the device for which the applicant has an approved PMA, unless the change is of a type for which FDA, under paragraph (e) of this section, has advised that an alternate submission is permitted or is of a type which, under section 515(d)(6)(A) of the act and paragraph (f) of this section, does not require a PMA supplement under this paragraph. While the burden for determining whether a supplement is required is primarily on the PMA holder, changes for which an applicant shall submit a PMA supplement include, but are not

limited to, the following types of changes if they affect the safety or effectiveness of the device:

(1) New indications for use of the device.

(2) Labeling changes.

(3) The use of a different facility or establishment to manufacture, process, or package the device.

(4) Changes in sterilization procedures.

(5) Changes in packaging.

(6) Changes in the performance or design specifications, circuits, components, ingredients, principle of operation, or physical layout of the device.

(7) Extension of the expiration date of the device based on data obtained under a new or revised stability or sterility testing protocol that has not been approved by FDA. If the protocol has been approved, the change shall be reported to FDA under paragraph (b) of this section.

(b) An applicant may make a change in a device after FDA's approval of a PMA for the device without submitting a PMA supplement if the change does not affect the device's safety or effectiveness and the change is reported to FDA in postapproval periodic reports required as a condition to approval of the device, e.g., an editorial change in labeling which does not affect the safety or effectiveness of the device.

(c) All procedures and actions that apply to an application under § 814.20 also apply to PMA supplements except that the information required in a supplement is limited to that needed to support the change. A summary under § 814.20(b)(3) is required for only a supplement submitted for new indications for use of the device, significant changes in the performance or design specifications, circuits, components, ingredients, principles of operation, or physical layout of the device, or when otherwise required by FDA. The applicant shall submit three copies of a PMA supplement and shall include information relevant to the proposed changes in the device. A PMA supplement shall include a separate section that identifies each change for which approval is being requested and explains the reason for each such change. The applicant shall submit additional copies and additional information if requested by FDA. The time frames for review of, and FDA action on, a PMA supplement are the same as those provided in § 814.40 for a PMA.

(d)(1) After FDA approves a PMA, any change described in paragraph (d)(2) of this section to reflect newly acquired information that enhances the safety of the device or the safety in the use of the device may be placed into effect by the applicant prior to the receipt under § 814.17 of a written FDA order approving the PMA supplement provided that:

(i) The PMA supplement and its mailing cover are plainly marked ''Special PMA Supplement—Changes Being Effected'';

(ii) The PMA supplement provides a full explanation of the basis for the changes;

(iii) The applicant has received acknowledgement from FDA of receipt of the supplement; and

(iv) The PMA supplement specifically identifies the date that such changes are being effected.

(2) The following changes are permitted by paragraph (d)(1) of this section:

(i) Labeling changes that add or strengthen a contraindication, warning, precaution, or information about an adverse reaction for which there is reasonable evidence of a causal association.

(ii) Labeling changes that add or strengthen an instruction that is intended to enhance the safe use of the device.

(iii) Labeling changes that delete misleading, false, or unsupported indications.

(iv) Changes in quality controls or manufacturing process that add a new specification or test method, or otherwise provide additional assurance of purity, identity, strength, or reliability of the device.

(e)(1) FDA will identify a change to a device for which an applicant has an approved PMA and for which a PMA supplement under paragraph (a) is not required. FDA will identify such a change in an advisory opinion under § 10.85, if the change applies to a generic type of device, or in correspondence to the applicant, if the change applies only to the applicant's device.

FDA will require that a change for which a PMA supplement under paragraph (a) is not required be reported to FDA in:

(i) A periodic report under § 814.84 or

(ii) A 30-day PMA supplement under this paragraph.

(2) FDA will identify, in the advisory opinion or correspondence, the type of information that is to be included in the report or 30-day PMA supplement. If the change is required to be reported to FDA in a periodic report, the change may be made before it is reported to FDA. If the change is required to be reported in a 30-day PMA supplement, the change may be made 30 days after FDA files the 30-day PMA supplement unless FDA requires the PMA holder to provide additional information, informs the PMA holder that the supplement is not approvable, or disapproves the supplement. The 30-day PMA supplement shall follow the instructions in the correspondence or advisory opinion. Any 30-day PMA supplement that does not meet the requirements of the correspondence or advisory opinion will not be filed and, therefore, will not be deemed approved 30 days after receipt.

(f) Under section 515(d) of the act, modifications to manufacturing procedures or methods of manufacture that affect the safety and effectiveness of a device subject to an approved PMA do not require submission of a PMA supplement under paragraph (a) of this section and are eligible to be the subject of a 30-day notice. A 30-day notice shall describe in detail the change, summarize the data or information supporting the change, and state that the change has been made in accordance with the requirements of part 820 of this chapter. The manufacturer may distribute the device 30 days after the date on which FDA receives the 30-day notice, unless FDA notifies the applicant within 30 days from receipt of the notice that the notice is not adequate. If the notice is not adequate, FDA shall inform the applicant in writing that a 135-day PMA supplement is needed and shall describe what further information or action is required for acceptance of such change. The number of days under review as a 30-day notice shall be deducted from the 135-day PMA supplement review period if the notice meets appropriate content requirements for a PMA supplement.

(g) The submission and grant of a written request for an exception or alternative under § 801.128 or § 809.11 of this chapter satisfies the requirement in paragraph (a) of this section.

[51 FR 26364, July 22, 1986, as amended at 51 FR 43344, Dec. 2, 1986; 63 FR 54044, Oct. 8, 1998; 67 FR 9587, Mar. 4, 2002; 69 FR 11313, Mar. 10, 2004; 72 FR 73602, Dec. 28, 2007; 73 FR 49610, Aug. 22, 2008]

EFFECTIVE DATE NOTE: At 75 FR 16351, Apr. 1 2010, § 814.39 was amended by adding paragraph (h), effective Aug. 16, 2010. For the convenience of the user, the added text is set forth as follows:

§ 814.39 PMA supplements.

* * * * *

(h) The application must include the following information, if readily available:

(1) A description of any pediatric subpopulations (neonates, infants, children, adolescents) that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

(2) The number of affected pediatric patients who are 21 years of age or younger.

(3) If information concerning the device that is the subject of the supplement was previously submitted under § 814.20(b)(3)(i), that information may be incorporated by reference to the application or submission that contains the information. However, if additional information required under § 814.20(b)(3)(i) has become readily available to the applicant since the previous submission, the applicant must submit that information as part of the supplement.

Subpart C—FDA Action on a PMA

§ 814.40 Time frames for reviewing a PMA.

Within 180 days after receipt of an application that is accepted for filing and to which the applicant does not submit a major amendment, FDA will review the PMA and, after receiving the report and recommendation of the appropriate FDA advisory committee, send the applicant an approval order under § 814.44(d), an approvable letter under § 814.44(e), a not approvable letter under § 814.44(f), or an order denying approval under § 814.45. The approvable letter and the not approvable letter