the reasons for the withdrawal from sale.

(b) When a petition described in paragraph (a) of this section is submitted, the agency will consider the evidence in the petition and any other evidence before the agency, and determine whether the listed drug is withdrawn from sale for safety or effectiveness reasons, in accordance with the procedures in §314.161.

(c) An abbreviated new drug application described in paragraph (a) of this section will be disapproved, under §314.93(e)(1)(iv), unless the agency determines that the withdrawal of the listed drug was not for safety or effectiveness reasons.

d) Certain drug products approved for safety and effectiveness that were no longer marketed on September 24, 1984, are not included in the list. Any person who wishes to obtain marketing approval for such a drug product under an abbreviated new drug application must petition FDA for a determination whether the drug product was withdrawn from the market for safety or effectiveness reasons and request that the list be amended to include the drug product. A person seeking such a determination shall use the petition procedures established in §10.30 of this chapter. The petitioner shall include in the petition information to show that the drug product was approved for safety and effectiveness and all evidence available to the petitioner concerning the reason that marketing of the drug product ceased.

[57 FR 17990, Apr. 28, 1992; 57 FR 29353, July 1, 1992]

§ 314.125 Refusal to approve an application.

(a) The Food and Drug Administration will refuse to approve the application and for a new drug give the applicant written notice of an opportunity for a hearing under §314.200 on the question of whether there are grounds for denying approval of the application under section 505(d) of the act, if:

(1) FDA sends the applicant a complete response letter under §314.110;

(2) The applicant requests an opportunity for hearing for a new drug on the question of whether the application is approvable; and

(3) FDA finds that any of the reasons given in paragraph (b) of this section apply.

(b) FDA may refuse to approve an application for any of the following reasons:

(1) The methods to be used in, and the facilities and controls used for, the manufacture, processing, packing, or holding of the drug substance or the drug product are inadequate to preserve its identity, strength, quality, purity, stability, and bioavailability.

(2) The investigations required under section 505(b) of the act do not include adequate tests by all methods reasonably applicable to show whether or not the drug is safe for use under the conditions prescribed, recommended, or suggested in its proposed labeling.

(3) The results of the tests show that the drug is unsafe for use under the conditions prescribed, recommended, or suggested in its proposed labeling or the results do not show that the drug product is safe for use under those conditions.

(4) There is insufficient information about the drug to determine whether the product is safe for use under the conditions prescribed, recommended, or suggested in its proposed labeling.

(5) There is a lack of substantial evidence consisting of adequate and well-controlled investigations, as defined in §314.126, that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its proposed labeling.

(6) The proposed labeling is false or misleading in any particular.

(7) The application contains an untrue statement of a material fact.

(8) The drug product’s proposed labeling does not comply with the requirements for labels and labeling in part 201.

(9) The application does not contain bioavailability or bioequivalence data required under part 320 of this chapter.

(10) A reason given in a letter refusing to file the application under §314.101(d), if the deficiency is not corrected.
§ 314.126 Adequate and well-controlled studies.

(a) The purpose of conducting clinical investigations of a drug is to distinguish the effect of a drug from other influences, such as spontaneous change in the course of the disease, placebo effect, or biased observation. The characteristics described in paragraph (b) of this section have been developed over a period of years and are recognized by the scientific community as the essentials of an adequate and well-controlled clinical investigation. The Food and Drug Administration considers these characteristics in determining whether an investigation is adequate and well-controlled for purposes of section 505 of the act. Reports of adequate and well-controlled investigations provide the primary basis for determining whether there is “substantial evidence” to support the claims of effectiveness for new drugs. Therefore, the study report 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) An adequate and well-controlled study has the following characteristics:

(1) There is a clear statement of the objectives of the investigation and a