

§ 314.65

not one of the types of amendments described in paragraph (f)(1) of this section.

[50 FR 7493, Feb. 22, 1985, as amended at 57 FR 17983, Apr. 28, 1992; 58 FR 47352, Sept. 8, 1993; 63 FR 5252, Feb. 2, 1998; 69 FR 18764, Apr. 8, 2004; 73 FR 39608, July 10, 2008; 81 FR 69648, Oct. 6, 2016]

§ 314.65 Withdrawal by the applicant of an unapproved application.

An applicant may at any time withdraw an application that is not yet approved by notifying the Food and Drug Administration in writing. If, by the time it receives such notice, the agency has identified any deficiencies in the application, we will list such deficiencies in the letter we send the applicant acknowledging the withdrawal. A decision to withdraw the application is without prejudice to refiling. The agency will retain the application and will provide a copy to the applicant on request under the fee schedule in § 20.45 of FDA's public information regulations.

[50 FR 7493, Feb. 22, 1985, as amended at 68 FR 25287, May 12, 2003; 73 FR 39609, July 10, 2008]

§ 314.70 Supplements and other changes to an approved NDA.

(a) *Changes to an approved NDA.* (1)(i) Except as provided in paragraph (a)(1)(ii) of this section, the applicant must notify FDA about each change in each condition established in an approved NDA beyond the variations already provided for in the NDA. The notice is required to describe the change fully. Depending on the type of change, the applicant must notify FDA about the change in a supplement under paragraph (b) or (c) of this section or by inclusion of the information in the annual report to the NDA under paragraph (d) of this section.

(ii) The submission and grant of a written request for an exception or alternative under § 201.26 of this chapter satisfies the applicable requirements in paragraphs (a) through (c) of this section. However, any grant of a request for an exception or alternative under § 201.26 of this chapter must be reported as part of the annual report to the NDA under paragraph (d) of this section.

(2) The NDA holder must assess the effects of the change before distrib-

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uting a drug product made with a manufacturing change.

(3) Notwithstanding the requirements of paragraphs (b) and (c) 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 product or in an annual report).

(4) The applicant must promptly revise all promotional labeling and advertising to make it consistent with any labeling change implemented in accordance with paragraphs (b) and (c) of this section.

(5) Except for a supplement providing for a change in the labeling, the applicant must include in each supplement and amendment to a supplement providing for a change under paragraph (b) or (c) of this section a statement certifying that a field copy has been provided in accordance with § 314.440(a)(4).

(6) A supplement or annual report must include a list of all changes contained in the supplement or annual report. For supplements, this list must be provided in the submission.

(b) *Changes requiring supplement submission and approval prior to distribution of the product made using the change (major changes).* (1) A supplement must be submitted for any change in the drug substance, drug product, 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 product as these factors may relate to the safety or effectiveness of the drug product.

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

(i) Except those described in paragraphs (c) and (d) of this section, changes in the qualitative or quantitative formulation of the drug product, including inactive ingredients, or in the specifications provided in the approved NDA;

(ii) Changes requiring completion of studies in accordance with part 320 of this chapter to demonstrate the equivalence of the drug product to the drug product as manufactured without