

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Commitment Studies; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA) is required, under the Food and Drug Administration Modernization Act of 1997 (Modernization Act), to report annually in the **Federal Register** on the status of postmarketing study commitments made by sponsors of approved drug and biological products. This is the agency's report on the status of the studies sponsors have agreed to or are required to conduct.

#### FOR FURTHER INFORMATION CONTACT:

Beth Duvall-Miller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6466, Silver Spring, MD 20993-0002, 301-796-0700; or

Robert Yetter, Center for Biologics Evaluation and Research (HFM-25), Food and Drug Administration, 1400 Rockville Pike, Rockville, MD 20852, 301-827-0373.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 130(a) of the Modernization Act (Public Law 105-115) amended the Federal Food, Drug, and Cosmetic Act (the act) by adding a new provision requiring reports of certain postmarketing studies (section 506B of the act (21 U.S.C. 356b)) for human drug and biological products. Section 506B of the act provides FDA with additional authority to monitor the progress of a postmarketing study commitment that an applicant has been required or has agreed to conduct by requiring the applicant to submit a report annually providing information on the status of the postmarketing study commitment. This report must also include reasons, if any, for failure to complete the commitment.

On December 1, 1999 (64 FR 67207), FDA published a proposed rule providing a framework for the content and format of the annual progress report. The proposed rule also clarified the scope of the reporting requirement and the timing for submission of the annual progress reports. The final rule, published on October 30, 2000 (65 FR

64607), modified annual report requirements for new drug applications (NDAs) and abbreviated new drug applications (ANDAs) by revising § 314.81(b)(2)(vii) (21 CFR 314.81(b)(2)(vii)). The rule also created a new annual reporting requirement for biologics license applications (BLAs) by establishing § 601.70 (21 CFR 601.70). These regulations became effective on April 30, 2001. The regulations apply only to human drug and biological products. They do not apply to animal drug or to biological products that also meet the definition of a medical device.

Sections 314.81(b)(2)(vii) and 601.70 apply to postmarketing commitments made on or before enactment of the Modernization Act (November 21, 1997) as well as those made after that date. Sections 314.81(b)(2)(vii) and 601.70 require applicants of approved drug and biological products to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study that is required by FDA (e.g., accelerated approval clinical benefit studies) or that they have committed to conduct either at the time of approval or after approval of their NDA, ANDA, or BLA. The status of other types of postmarketing commitments (e.g., those concerning chemistry, manufacturing, production controls, and studies conducted on an applicant's own initiative) are not required to be reported under §§ 314.81(b)(2)(vii) and 601.70, and are not addressed in this report. It should be noted, however, that applicants are required to report to FDA on these commitments made for NDAs and ANDAs under § 314.81(b)(2)(viii).

According to the regulations, once a postmarketing study commitment has been made, an applicant must report on the progress of the commitment on the anniversary of the product's approval until the postmarketing study commitment is completed or terminated, and FDA determines that the postmarketing study commitment has been fulfilled or that the postmarketing study commitment is either no longer feasible or would no longer provide useful information. The annual progress report must include a description of the postmarketing study commitment, a schedule for completing the study commitment, and a characterization of the current status of the study commitment. The report must also provide an explanation of the postmarketing study commitment's status by describing briefly the postmarketing study commitment's progress. A postmarketing study commitment schedule is expected to

include the actual or projected dates for the following: (1) Submission of the study protocol to FDA, (2) completion of patient accrual or initiation of an animal study, (3) completion of the study, and (4) submission of the final study report to FDA. The postmarketing study commitment status must be described in the annual report according to the following definitions:

- Pending: The study has not been initiated (i.e., no subjects have been enrolled or animals dosed), but does not meet the criterion for delayed (i.e., the original projected date for initiation of patient accrual or initiation of animal dosing has not passed);
- Ongoing: The study is proceeding according to or ahead of the original schedule;
- Delayed: The study is behind the original schedule;
- Terminated: The study was ended before completion, but a final study report has not been submitted to FDA; or
- Submitted: The study has been completed or terminated, and a final study report has been submitted to FDA.

Databases containing information on postmarketing study commitments are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). Information in this report covers any postmarketing study commitment that was made, in writing, at the time of approval or after approval of an application or a supplement to an application, including those required (e.g., to demonstrate clinical benefit of a product following accelerated approval) and those agreed to with the applicant. Information summarized in this report includes: (1) The number of applicants with open (uncompleted) postmarketing commitments, (2) the number of open postmarketing commitments, (3) the status of open postmarketing commitments as reported in § 314.81(b)(2)(vii) or § 601.70 annual reports, (4) the status of concluded postmarketing studies as determined by FDA, and (5) the number of applications with open postmarketing commitments for which sponsors did not submit an annual report within 60 days of the anniversary date of U.S. approval.

Additional information about postmarketing study commitments made by sponsors to CDER and CBER are provided on FDA's Web site at <http://www.fda.gov/cder>. Like this document, the site does not list postmarketing study commitments containing proprietary information. It is FDA policy not to post information on the Web site until it has been reviewed for accuracy. The numbers published in

this document cannot be compared with the numbers resulting from searches of the Web site. This document incorporates totals for all postmarketing study commitments in FDA databases, including those undergoing review for accuracy. The report in this document will be updated annually while the Web

site is updated quarterly (in January, April, July, and October).

## II. Summary of Information From Postmarketing Study Progress Reports

This report summarizes the status of postmarketing commitments as of September 30, 2006. If a commitment did not have a schedule or a

postmarketing progress report was not received, the commitment is categorized according to the most recent information available to the agency.

Data in table 1 of this document are numerical summaries generated from FDA databases. The data are broken out according to application type (NDAs/ANDAs or BLAs).

TABLE 1.—SUMMARY OF POSTMARKETING STUDY COMMITMENTS (NUMBERS AS OF SEPTEMBER 30, 2006)

	NDA/ANDAs (% of Total)	BLAs <sup>1</sup> (% of Total)
Applicants With Open Postmarketing Commitments	127	45
Number of Open Postmarketing Commitments	1,259	373
Status of Open Postmarketing Commitments		
• Pending	899 (71%)	127 (34%)
• Ongoing	184 (15%)	90 (24%)
• Delayed	31 (3%)	78 (21%)
• Terminated	1 (<1%)	2 (1%)
• Submitted	144 (11%)	76 (20%)
Concluded Studies (October 1, 2005 Through September 30, 2006)	194	38
• Commitment Met	160 (83%)	33 (87%)
• Commitment Not Met	10 (5%)	0
• Study No Longer Needed or Feasible	24 (12%)	5 (13%)
Applications With Open Postmarketing Commitments With Annual Reports Due, But Not Submitted Within 60 Days of the Anniversary Date of U.S. Approval	133 (37%) <sup>2</sup>	33 (47%)

<sup>1</sup> On October 1, 2003, FDA completed a consolidation of certain products formerly regulated by the CBER into CDER. The previous association of BLA reviews only with CBER is no longer valid; BLAs are now received by both CBER and CDER. Fiscal year (FY) statistics for CDER BLA postmarketing study commitments will continue to be counted under BLA totals in this table.

<sup>2</sup> Note that this statistic counts all annual reports submitted more than 60 days after the anniversary date of U.S. approval as overdue, including reports that may have been submitted on a modified reporting schedule in accordance with prior FDA agreement. Of the applications categorized as having overdue annual reports using this definition, annual reports were subsequently submitted in FY 2006 for 133/133 (100%) of NDAs/ANDAs and 15/33 (45%) of BLAs.

Dated: January 25, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### Automated Commercial Environment (ACE): National Customs Automation Program Test of Automated Truck Manifest for Truck Carrier Accounts; Deployment Schedule

**AGENCY:** Customs and Border Protection; Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** The Bureau of Customs and Border Protection, in conjunction with

the Department of Transportation, Federal Motor Carrier Safety Administration, is currently conducting a National Customs Automation Program (NCAP) test concerning the transmission of automated truck manifest data. This document announces a new group, or cluster, of ports to be deployed for this test.

**DATES:** The ports identified in this notice, all in the state of North Dakota, are expected to be fully deployed for testing by January 31, 2007. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Swanson via e-mail at [james.d.swanson@dhs.gov](mailto:james.d.swanson@dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Customs Automation Program (NCAP) test concerning the

transmission of automated truck manifest data for truck carrier accounts was announced in a General Notice published in the **Federal Register** (69 FR 55167) on September 13, 2004. That notice stated that the test of the Automated Truck Manifest would be conducted in a phased approach, with primary deployment scheduled for no earlier than November 29, 2004.

A series of **Federal Register** notices have announced the implementation of the test, beginning with a notice published on May 31, 2005 (70 FR 30964). As described in that document, the deployment sites for the test have been phased in as clusters. The ports identified belonging to the first cluster were announced in the May 31, 2005, notice. Additional clusters were announced in subsequent notices published in the **Federal Register** including: 70 FR 43892, published on July 29, 2005; 70 FR 60096, published