

an appropriate clinical study demonstrating equivalence of the drug to the drug as manufactured without the change; or

(C) is another type of change determined by the Secretary by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug.

**(d) Other manufacturing changes**

**(1) In general**

For purposes of subsection (a)(2)(B), the Secretary may regulate drugs made with manufacturing changes that are not major manufacturing changes as follows:

(A) The Secretary may in accordance with paragraph (2) authorize holders to distribute such drugs without submitting a supplemental application for such changes.

(B) The Secretary may in accordance with paragraph (3) require that, prior to the distribution of such drugs, holders submit to the Secretary supplemental applications for such changes.

(C) The Secretary may establish categories of such changes and designate categories to which subparagraph (A) applies and categories to which subparagraph (B) applies.

**(2) Changes not requiring supplemental application**

**(A) Submission of report**

A holder making a manufacturing change to which paragraph (1)(A) applies shall submit to the Secretary a report on the change, which shall contain such information as the Secretary determines to be appropriate, and which shall include the information developed under subsection (b) by the holder in validating the effects of the change. The report shall be submitted by such date as the Secretary may specify.

**(B) Authority regarding annual reports**

In the case of a holder that during a single year makes more than one manufacturing change to which paragraph (1)(A) applies, the Secretary may in carrying out subparagraph (A) authorize the holder to comply with such subparagraph by submitting a single report for the year that provides the information required in such subparagraph for all the changes made by the holder during the year.

**(3) Changes requiring supplemental application**

**(A) Submission of supplemental application**

The supplemental application required under paragraph (1)(B) for a manufacturing change shall contain such information as the Secretary determines to be appropriate, which shall include the information developed under subsection (b) by the holder in validating the effects of the change.

**(B) Authority for distribution**

In the case of a manufacturing change to which paragraph (1)(B) applies:

(i) The holder involved may commence distribution of the drug involved 30 days after the Secretary receives the supplemental application under such paragraph,

unless the Secretary notifies the holder within such 30-day period that prior approval of the application is required before distribution may be commenced.

(ii) The Secretary may designate a category of such changes for the purpose of providing that, in the case of a change that is in such category, the holder involved may commence distribution of the drug involved upon the receipt by the Secretary of a supplemental application for the change.

(iii) If the Secretary disapproves the supplemental application, the Secretary may order the manufacturer to cease the distribution of the drugs that have been made with the manufacturing change.

(June 25, 1938, ch. 675, §506A, as added Pub. L. 105-115, title I, §116(a), Nov. 21, 1997, 111 Stat. 2313.)

EFFECTIVE DATE

Pub. L. 105-115, title I, §116(b), Nov. 21, 1997, 111 Stat. 2315, provided that: "The amendment made by subsection (a) [enacting this section] takes effect upon the effective date of regulations promulgated by the Secretary of Health and Human Services to implement such amendment, or upon the expiration of the 24-month period beginning on the date of the enactment of this Act [Nov. 21, 1997], whichever occurs first."

**§ 356b. Reports of postmarketing studies**

**(a) Submission**

**(1) In general**

A sponsor of a drug that has entered into an agreement with the Secretary to conduct a postmarketing study of a drug shall submit to the Secretary, within 1 year after the approval of such drug and annually thereafter until the study is completed or terminated, a report of the progress of the study or the reasons for the failure of the sponsor to conduct the study. The report shall be submitted in such form as is prescribed by the Secretary in regulations issued by the Secretary.

**(2) Agreements prior to effective date**

Any agreement entered into between the Secretary and a sponsor of a drug, prior to November 21, 1997, to conduct a postmarketing study of a drug shall be subject to the requirements of paragraph (1). An initial report for such an agreement shall be submitted within 6 months after the date of the issuance of the regulations under paragraph (1).

**(b) Consideration of information as public information**

Any information pertaining to a report described in subsection (a) shall be considered to be public information to the extent that the information is necessary—

(1) to identify the sponsor; and

(2) to establish the status of a study described in subsection (a) and the reasons, if any, for any failure to carry out the study.

**(c) Status of studies and reports**

The Secretary shall annually develop and publish in the Federal Register a report that provides information on the status of the postmarketing studies—

(1) that sponsors have entered into agreements to conduct; and

(2) for which reports have been submitted under subsection (a)(1).

**(d) Disclosure**

If a sponsor fails to complete an agreed upon study required by this section by its original or otherwise negotiated deadline, the Secretary shall publish a statement on the Internet site of the Food and Drug Administration stating that the study was not completed and, if the reasons for such failure to complete the study were not satisfactory to the Secretary, a statement that such reasons were not satisfactory to the Secretary.

**(e) Notification**

With respect to studies of the type required under section 356(c)(2)(A) of this title or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as each of such sections was in effect on the day before the effective date of this subsection, the Secretary may require that a sponsor who, for reasons not satisfactory to the Secretary, fails to complete by its deadline a study under any of such sections of such type for a drug or biological product (including such a study conducted after such effective date) notify practitioners who prescribe such drug or biological product of the failure to complete such study and the questions of clinical benefit, and, where appropriate, questions of safety, that remain unanswered as a result of the failure to complete such study. Nothing in this subsection shall be construed as altering the requirements of the types of studies required under section 356(c)(2)(A) of this title or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as so in effect, or as prohibiting the Secretary from modifying such sections of title 21 of such Code to provide for studies in addition to those of such type.

(June 25, 1938, ch. 675, §506B, as added Pub. L. 105-115, title I, §130(a), Nov. 21, 1997, 111 Stat. 2331; amended Pub. L. 107-188, title V, §506, June 12, 2002, 116 Stat. 693; Pub. L. 112-144, title IX, §902(c), July 9, 2012, 126 Stat. 1088.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (e), is Oct. 1, 2002, see Effective Date of 2002 Amendment note set out below.

AMENDMENTS

2012—Subsec. (e). Pub. L. 112-144 substituted “section 356(c)(2)(A) of this title” for “section 356(b)(2)(A) of this title” in two places.

2002—Subsecs. (d), (e). Pub. L. 107-188 added subsecs. (d) and (e).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-188, title V, §508, June 12, 2002, 116 Stat. 694, provided that: “The amendments made by this subtitle [subtitle A (§§501-509) of title V of Pub. L. 107-188, amending this section and sections 379g and 379h of this title] shall take effect October 1, 2002.”

EFFECTIVE DATE

Section effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105-115, set out as an Effective Date of 1997 Amendment note under section 321 of this title.

REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 105-115, title I, §130(b), Nov. 21, 1997, 111 Stat. 2331, provided that not later than Oct. 1, 2001, the Secretary was to submit to Congress a report containing a summary of the reports submitted under section 356b of this title and an evaluation and legislative recommendations relating to postmarketing studies of drugs.

**§ 356c. Discontinuance or interruption in the production of life-saving drugs**

**(a) In general**

A manufacturer of a drug—

(1) that is—

(A) life-supporting;

(B) life-sustaining; or

(C) intended for use in the prevention or treatment of a debilitating disease or condition, including any such drug used in emergency medical care or during surgery; and

(2) that is not a radio pharmaceutical drug product or any other product as designated by the Secretary,

shall notify the Secretary, in accordance with subsection (b), of a permanent discontinuance in the manufacture of the drug or an interruption of the manufacture of the drug that is likely to lead to a meaningful disruption in the supply of that drug in the United States, and the reasons for such discontinuance or interruption.

**(b) Timing**

A notice required under subsection (a) shall be submitted to the Secretary—

(1) at least 6 months prior to the date of the discontinuance or interruption; or

(2) if compliance with paragraph (1) is not possible, as soon as practicable.

**(c) Distribution**

To the maximum extent practicable, the Secretary shall distribute, through such means as the Secretary deems appropriate, information on the discontinuance or interruption of the manufacture of the drugs described in subsection (a) to appropriate organizations, including physician, health provider, and patient organizations, as described in section 356e of this title.

**(d) Confidentiality**

Nothing in this section shall be construed as authorizing the Secretary to disclose any information that is a trade secret or confidential information subject to section 552(b)(4) of title 5 or section 1905 of title 18.

**(e) Coordination with Attorney General**

Not later than 30 days after the receipt of a notification described in subsection (a), the Secretary shall—

(1) determine whether the notification pertains to a controlled substance subject to a production quota under section 826 of this title; and

(2) if necessary, as determined by the Secretary—

(A) notify the Attorney General that the Secretary has received such a notification;

(B) request that the Attorney General increase the aggregate and individual production quotas under section 826 of this title ap-