Food and Drug Administration, HHS

§ 314.620

met based on adequate and well-controlled animal studies when the results of those animal studies establish that the drug product is reasonably likely to produce clinical benefit in humans. In assessing the sufficiency of animal data, the agency may take into account other data, including human data, available to the agency. FDA will rely on the evidence from studies in animals to provide substantial evidence of the effectiveness of these products only when:

1. There is a reasonably well-understood pathophysiological mechanism of the toxicity of the substance and its prevention or substantial reduction by the product;
2. The effect is demonstrated in more than one animal species expected to react with a response predictive for humans, unless the effect is demonstrated in a single animal species that represents a sufficiently well-characterized animal model for predicting the response in humans;
3. The animal study endpoint is clearly related to the desired benefit in humans, generally the enhancement of survival or prevention of major morbidity; and
4. The data or information on the kinetics and pharmacodynamics of the product or other relevant data or information, in animals and humans, allows selection of an effective dose in humans.

(b) Approval under this subpart will be subject to three requirements:

1. Postmarketing studies. The applicant must conduct postmarketing studies, such as field studies, to verify and describe the drug’s clinical benefit and to assess its safety when used as indicated when such studies are feasible and ethical. Such postmarketing studies would not be feasible until an exigency arises. When such studies are feasible, the applicant must conduct such studies with due diligence. Applicants must include as part of their application a plan or approach to postmarketing study commitments in the event such studies become ethical and feasible.

2. Approval with restrictions to ensure safe use. If FDA concludes that a drug product shown to be effective under this subpart can be safely used only if distribution or use is restricted, FDA will require such postmarketing restrictions as are needed to ensure safe use of the drug product, commensurate with the specific safety concerns presented by the drug product, such as:
   (1) Distribution restricted to certain facilities or health care practitioners with special training or experience;
   (2) Distribution conditioned on the performance of specified medical procedures, including medical followup; and
   (3) Distribution conditioned on specific recordkeeping requirements.

3. Information to be provided to patient recipients. For drug products or specific indications approved under this subpart, applicants must prepare, as part of their proposed labeling, labeling to be provided to patient recipients. The patient labeling must explain that, for ethical or feasibility reasons, the drug’s approval was based on efficacy studies conducted in animals alone and must give the drug’s indication(s), directions for use (dosage and administration), contraindications, a description of any reasonably foreseeable risks, adverse reactions, anticipated benefits, drug interactions, and any other relevant information required by FDA at the time of approval. The patient labeling must be available with the product to be provided to patients prior to administration or dispensing of the drug product for the use approved under this subpart, if possible.

§ 314.620 Withdrawal procedures.

(a) Reasons to withdraw approval. For new drugs approved under this subpart, FDA may withdraw approval, following a hearing as provided in part 15 of this chapter, as modified by this section, if:
   (1) A postmarketing clinical study fails to verify clinical benefit;
   (2) The applicant fails to perform the postmarketing study with due diligence;
   (3) Use after marketing demonstrates that postmarketing restrictions are inadequate to ensure safe use of the drug product;
   (4) The applicant fails to adhere to the postmarketing restrictions applied at the time of approval under this subpart;
   (5) The promotional materials are false or misleading; or
§ 314.630 Postmarketing safety reporting.

Drug products approved under this subpart are subject to the postmarketing recordkeeping and safety reporting requirements applicable to all approved drug products, as provided in §§314.80 and 314.81.

§ 314.640 Promotional materials.

For drug products being considered for approval under this subpart, unless otherwise informed by the agency, applicants must submit to the agency for consideration during the preapproval review period copies of all promotional materials, including promotional labeling as well as advertisements, intended for dissemination or publication within 120 days following marketing approval. After 120 days following marketing approval, unless otherwise informed by the agency, the applicant must submit promotional materials at least 30 days prior to the intended time of initial dissemination of the labeling or initial publication of the advertisement.

§ 314.650 Termination of requirements.

If FDA determines after approval under this subpart that the requirements established in §§314.610(b)(2), 314.620, and 314.630 are no longer necessary for the safe and effective use of a drug product, FDA will so notify the applicant. Ordinarily, for drug products approved under §314.610, these requirements will no longer apply when FDA determines that the postmarketing study verifies and describes the drug product’s clinical benefit. For drug products approved under §314.610, the restrictions would no longer apply when FDA determines that safe use of the drug product can be ensured through appropriate labeling. FDA also