

certification of the drug, if necessary. A new drug product or antibiotic approved under this paragraph may not be marketed until an approval is effective. Marketing of an antibiotic need not await the promulgation of a regulation under §314.300.

(b) FDA will approve an application or abbreviated antibiotic application and issue the applicant an approval letter (rather than an approvable letter under §314.110) on the basis of draft labeling if the only deficiencies in the application or abbreviated antibiotic application concern editorial or similar minor deficiencies in the draft labeling. Such approval will be conditioned upon the applicant incorporating the specified labeling changes exactly as directed, and upon the applicant submitting to FDA a copy of the final printed labeling prior to marketing.

(c) FDA will approve an application after it determines that the drug meets the statutory standards for safety and effectiveness, manufacturing and controls, and labeling, and an abbreviated application after it determines that the drug meets the statutory standards for manufacturing and controls, labeling, and, where applicable, bioequivalence. While the statutory standards apply to all drugs, the many kinds of drugs that are subject to the statutory standards and the wide range of uses for those drugs demand flexibility in applying the standards. Thus FDA is required to exercise its scientific judgment to determine the kind and quantity of data and information an applicant is required to provide for a particular drug to meet the statutory standards. FDA makes its views on drug products and classes of drugs available through guidelines, recommendations, and other statements of policy.

(d) FDA will approve an abbreviated new drug application and send the applicant an approval letter if none of the reasons in §314.127 for refusing to approve the abbreviated new drug application applies. The approval becomes effective on the date of the issuance of the agency's approval letter unless the approval letter provides for a delayed effective date. An approval with a delayed effective date is tentative and does not become final until the effective date. A new drug product approved

under this paragraph may not be introduced or delivered for introduction into interstate commerce until approval of the abbreviated new drug application is effective. Ordinarily, the effective date of approval will be stated in the approval letter.

[57 FR 17989, Apr. 28, 1992]

§314.106 Foreign data.

(a) *General.* The acceptance of foreign data in an application generally is governed by §312.120 of this chapter.

(b) *As sole basis for marketing approval.* An application based solely on foreign clinical data meeting U.S. criteria for marketing approval may be approved if: (1) The foreign data are applicable to the U.S. population and U.S. medical practice; (2) the studies have been performed by clinical investigators of recognized competence; and (3) the data may be considered valid without the need for an on-site inspection by FDA or, if FDA considers such an inspection to be necessary, FDA is able to validate the data through an on-site inspection or other appropriate means. Failure of an application to meet any of these criteria will result in the application not being approvable based on the foreign data alone. FDA will apply this policy in a flexible manner according to the nature of the drug and the data being considered.

(c) *Consultation between FDA and applicants.* Applicants are encouraged to meet with agency officials in a "pre-submission" meeting when approval based solely on foreign data will be sought.

[50 FR 7493, Feb. 22, 1985, as amended at 55 FR 11580, Mar. 29, 1990]

§314.107 Effective date of approval of a 505(b)(2) application or abbreviated new drug application under section 505(j) of the act.

(a) *General.* A drug product may be introduced or delivered for introduction into interstate commerce when approval of the application or abbreviated application for the drug product becomes effective. Except as provided in this section, approval of an application or abbreviated application for a drug product becomes effective on the date FDA issues an approval letter