

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

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**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.

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**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 (HFD-20), Food and Drug Administration, 5515 Security Lane, Rockville, MD 20852, 301-594-3937; 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.

In the **Federal Register** of 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 in the **Federal Register** of 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 items: (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, but does not meet the criterion for delayed;

- 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 the following items: (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](http://www.fda.gov/cder). Like this notice, 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 notice cannot be compared with the numbers resulting from searches of the Web site. This notice incorporates totals for all postmarketing study commitments in FDA databases, including those undergoing review for accuracy. The report in this notice is updated annually while the Web site is updated quarterly (in April, July, October, and January).

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

This report summarizes the status of postmarketing commitments as of September 30, 2004. 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).

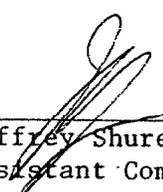
TABLE 1.—Summary of Postmarketing Study Commitments (Numbers as of September 30, 2004)

	NDAs/ANDAs (% of Total)	BLAs <sup>1</sup> (% of Total)
Applicants with Open Postmarketing Commitments	54	46
Number of Open Postmarketing Commitments	1,191	288
Status of Open Postmarketing Commitments		
• Pending	812 (68%)	69 (24%)
• Ongoing	219 (18%)	114 (40%)
• Delayed	15 (1%)	37 (13%)
• Terminated	2 (<1%)	1 (<1%)
• Submitted	143 (12%)	67 (23%)
Concluded Studies (October 1, 2003, through September 30, 2004)	157	62
• Commitment Met	114 (73%)	45 (73%)
• Commitment Not Met	0	0
• Study No Longer Needed or Feasible	43 (27%)	17 (27%)
Applications with Open Postmarketing Commitments with Annual Reports Due but Not Submitted within 60 Days of the Anniversary Date of U.S. Approval	18 (16%)	51 (66%)

<sup>1</sup>On October 1, 2003, FDA completed a consolidation of certain products formerly regulated by 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 statistics for CDER BLA postmarketing study commitments will continue to be counted under BLA totals in this table.

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February 10, 2005.

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Jeffrey Shuren,  
Assistant Commissioner for Policy.

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