Certification Process for Designated Medical Gases

Guidance for Industry

DRAFT GUIDANCE

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For questions regarding this draft document contact Michael Folkendt at 301-796-1900.

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Drug Evaluation and Research (CDER)
Center for Veterinary Medicine (CVM)

November 2015
Procedural

Revision 1

Certification Process for Designated Medical Gases

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U.S. Department of Health and Human Services
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Revision 1

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Draft – Not for Implementation

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Certification Process for Designated Medical Gases Guidance for Industry[1]

This draft guidance, when finalized, will represent the current thinking of the Food and Drug Administration (FDA or Agency) on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff responsible for this guidance as listed on the title page.

I. INTRODUCTION

Title XI, Subtitle B of the Food and Drug Administration Safety and Innovation Act (FDASIA)[2] added sections 575 and 576 to the Federal Food, Drug, and Cosmetic Act (FD&C Act), creating a new certification process for approval of designated medical gases. Section 575 defines "designated medical gas" to include oxygen, nitrogen, nitrous oxide, carbon dioxide, helium, carbon monoxide, and medical air that meet the standards set forth in an official compendium. Section 576 permits any person to file a request for certification of a medical gas as a designated medical gas for certain indications specified in the statute. A designated medical gas for which a certification is granted is deemed to have in effect an approved marketing application under Section 505 of the FD&C Act (human drugs), Section 512 of the FD&C Act (animal drugs), or both, depending on the type of certification requested and granted. This guidance explains how the Food and Drug Administration (FDA) administers the certification process. Specifically, the guidance discusses what products qualify as designated medical gases, who should submit a certification request, what information should be submitted, how FDA will evaluate and act on the request, and how FDA plans to enforce these new medical gas provisions.

Until a certification has been granted, anyone marketing a medical gas for human or animal drug use without an approved application under section 505 or 512 of the FD&C Act is marketing an unapproved new drug.[3] See sections 505(a) and 512(a)(1)(A) of the FD&C Act. FDA expects that persons or entities wishing to market designated medical gases for the indication or indications specified in section 576(a)(3)(A)(i) will request certification from FDA, or ensure

[1] This guidance has been prepared by the Office of Regulatory Policy, the Office of Pharmaceutical Quality, and the Office of Compliance in the Center for Drug Evaluation and Research (CDER) and the Office of New Animal Drug Evaluation in the Center for Veterinary Medicine (CVM) at the Food and Drug Administration.

[2] Public Law 112-144, 126 Stat. 993 (July 9, 2012).

[3] See section IV below regarding who should request a certification and section VI below regarding the marketing of carbon monoxide for use in lung diffusion testing.

that the gases they receive and distribute are certified (i.e., are covered by a granted certification).[4] Gases not intended for human or animal drug use, e.g., gases intended for industrial applications or non-drug medical applications (such as calibration gases), do not fall within the definition of "medical gas" provided in section 575(2) of the FD&C Act, and are not subject to the certification process described in this guidance.

To facilitate the process of requesting certifications, FDA has developed a form that requestors should complete when making their requests (see attachment).

This guidance does not discuss how FDA plans to implement its new authority to designate gases in addition to those listed above[5] or to expand the indications for use for designated medical gases beyond those specified at section 576(a)(3)(A)(i) of the FD&C Act. This document also does not discuss any of the other new authorities and obligations related to medical gases added to the FD&C Act by FDASIA (e.g., section 577 of the FD&C Act and sections 1112 and 1113 of FDASIA).

In general, FDA's guidance documents do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in FDA guidances means that something is suggested or recommended, but not required.

II. THE CERTIFICATION PROCESS

Any person may file a request for certification of a medical gas as a designated medical gas. A certification request must contain a description of the medical gas for which the certification is sought, the name and address of the sponsor, the name and address of the facility or facilities where the medical gas is or will be manufactured, and any other information deemed appropriate by FDA to determine whether the medical gas is a designated medical gas (see section 576(a)(1) of the FD&C Act). A certification request is deemed to be granted unless, within 60 days of filing, FDA finds that (1) the medical gas for which the certification is requested is not a designated medical gas, (2) the request lacks the information required by section 576(a)(1) noted at the outset of this paragraph or otherwise lacks sufficient information to permit FDA to determine that the medical gas is a designated medical gas, or (3) denying the request is necessary to protect the public health (see section 576(a)(2) of the FD&C Act).

A designated medical gas for which a certification is granted is deemed to have in effect an approved application under section 505 (for gases intended for human use) or 512 (for gases

[4] Those seeking to market any other medical gas, or seeking to market a designated medical gas (alone or in combination with one or more other medical gases, designated or otherwise) for an indication that is neither specified in 576(a)(3)(A)(i) of the FD&C Act for that designated medical gas or later added by FDA under its authority at section 576(a)(3)(A)(i)(VIII), cannot obtain approval to do so through the certification process and must obtain approval by a different pathway (e.g., a new drug application (NDA) or a new animal drug application (NADA)). See Part IV.A of this draft guidance.

[5] See section 575(1)(H) of the FD&C Act.

intended for animal use) of the FD&C Act (or both) for the indications listed below and is subject to all applicable post-approval requirements (see section 576(a)(3)(A)(i)). The approval applies to the designated medical gas alone or in combination, as medically appropriate, with one or more other designated medical gases for which certifications have been granted (see section 576(a)(3)(A)(i)).

Under section 576, at this time the designated medical gases may be certified only for the following indications:

- Oxygen: for treatment or prevention of hypoxemia or hypoxia.
- Nitrogen: for use in hypoxic challenge testing.
- Nitrous oxide: for analgesia.
- Carbon dioxide: for use in extracorporeal membrane oxygenation therapy or respiratory stimulation.
- Helium: for treatment of upper airway obstruction or increased airway resistance.
- Medical air: to reduce the risk of hyperoxia.
- Carbon monoxide: for use in lung diffusion testing.

Section 576(a)(3)(A)(ii) of the FD&C Act provides that the labeling requirements at sections 503(b)(4) and 502(f) are deemed to have been met for a designated medical gas if the labeling on final use containers for the medical gas bears--"(I) the information required by section 503(b)(4); (II) a warning statement concerning the use of the medical gas as determined by the Secretary by regulation; and (III) appropriate directions and warnings concerning storage and handling." With regard to the warning statement referred to at section 576(a)(3)(A)(ii)(II), a warning statement applicable to carbon dioxide, helium, and nitrous oxide can be found at 21 CFR 201.161(a). However, no regulation sets forth warning statements for the other designated medical gases or for combinations of designated medical gases. Until such time as FDA promulgates relevant final regulations, FDA recommends that the labeling for final use containers containing nitrogen, medical air, carbon monoxide, or any medically appropriate combination of designated medical gases bear the warning statement set forth at 21 CFR 201.161(a). FDA further recommends that labeling for final use containers containing oxygen should convey that uninterrupted use of high concentrations of oxygen over a long duration, without monitoring its effect on oxygen content of arterial blood, may be harmful, and that oxygen should not be used on patients who have stopped breathing unless used in conjunction with resuscitative equipment.

Section 576 further provides that, in the case of oxygen provided for certain uses specified at 576(b)(2)(B), the requirements of section 503(b)(4) shall be deemed to have been met if the labeling bears a warning that oxygen can be used for emergency use only, and that for all other medical applications a prescription is required. Accordingly, FDA recommends that labeling for final use containers containing oxygen that may be provided without a prescription for the uses listed at section 576(b)(2)(A) of the Act bear a warning statement in accord with section 576(b)(2)(B).

III. THE CURRENT LIST OF DESIGNATED MEDICAL GASES

Section 575(1) of the FD&C Act provides that oxygen, nitrogen, nitrous oxide, carbon dioxide, helium, medical air, and carbon monoxide are "designated medical gases" if they "meet the standards set forth in an official compendium." Section 201(j) of the FD&C Act defines "official compendium" to include the official United States Pharmacopoeia (USP), the official Homeopathic Pharmacopeia of the United States (HPUS), the official National Formulary (NF), or any supplement to any of them.

Based on the statutory language and the current language in these official compendia,[6] FDA considers the following to be the current list of the gases that constitute designated medical gases for which a certification can be sought:[7]

Oxygen. The product must conform to the requirements and standards set forth in the USP monograph entitled "Oxygen" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(A) of the Act).

> *Note*: The USP monograph entitled "Oxygen" states that "Oxygen contains not less than 99.0 percent, by volume, of O2." There is another USP monograph entitled "Oxygen 93 Percent" that describes a product that is "Oxygen … [that] contains not less than 90.0 percent and not more than 96.0 percent, by volume of O2, the remainder consisting mostly of argon and nitrogen." "Oxygen 93 Percent" is different from "Oxygen" and does not fall within the meaning of 575(1)(A). Thus, FDA considers only products that conform to the "Oxygen" monograph (and not the "Oxygen 93 Percent monograph") to be "oxygen, that meets the standards set forth in an official compendium" (section 575(1)(A)).

Nitrogen. The product must conform to the requirements and standards set forth in the NF monograph entitled "Nitrogen" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(B) of the Act).

> *Note:* The NF monograph entitled "Nitrogen" states that "Nitrogen contains not less than 99.0 percent, by volume, of N_2." The NF also contains a monograph entitled "Nitrogen 97 Percent." FDA considers only products that conform to the "Nitrogen" monograph to be "nitrogen, that meets the standards set forth in an official compendium" (section 575(1)(B)); conformance with the "Nitrogen 97" monograph is not sufficient.

Nitrous Oxide. The product must conform to the requirements and standards set forth in the USP monograph entitled "Nitrous Oxide" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(C) of the Act).[8]

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[6] Should a monograph in an official compendium for one of the designated gases change, persons or entities marketing that gas must comply with those changes.

[7] Section 575(1)(H) authorizes the Secretary to add other gases to the list of designated medical gases. The Secretary has not taken any such action at this time. As noted in the Introduction, this guidance does not discuss how FDA plans to implement this authority.

Carbon dioxide. The product must conform to the requirements and standards set forth in the USP monograph entitled "Carbon Dioxide" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(D) of the Act).

Helium. The product must conform to the requirements and standards set forth in the USP monograph entitled "Helium" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(E) of the Act).

Medical air. The product must conform to the requirements and standards set forth in the USP monograph entitled "Medical Air" and all applicable requirements and standards contained in the USP General Notices (see section 575(1)(G) of the Act).

Carbon monoxide. There is currently no monograph in the USP or the NF for "Carbon Monoxide." Therefore, FDA does not plan to grant certification requests for this medical gas.[9] FDA does not intend to object to the marketing of this medical gas for use in lung diffusion testing pending its inclusion in the USP or NF, as discussed in Part VI of this guidance. If a monograph for "Carbon Monoxide" is added to the USP or NF at a later date, FDA would expect persons or entities marketing carbon monoxide for use in lung diffusion testing to request a certification. In addition, future requestors must conform to the requirements and standards set forth in such a monograph as well as all applicable requirements and standards contained in the USP General Notices, for the product to be considered a designated medical gas (see section 575(1)(F) of the Act).

IV. REQUESTING A CERTIFICATION

FDA expects all persons or entities that initially introduce or deliver for introduction a designated medical gas into interstate commerce to obtain a granted certification.[10] To facilitate the certification process, FDA has developed the attached Request for Certification of Designated Medical Gas form. FDA strongly encourages requestors to use this form, and to closely follow the instructions attached to that form.

A. Who should submit a request for certification?

Only the first person or entity that initially introduces or delivers for introduction a designated medical gas into interstate commerce should request a certification. In most cases, this will be

[8] The HPUS also includes a monograph for nitrous oxide. However section 501(b) of the FD&C Act states that "[w]henever a drug is mentioned in both the USP and the HPUS it shall be subject to the requirements of the USP unless it is labeled and offered for sale as a homeopathic drug." See also FDA's Compliance Policy Guide 400.400, Conditions Under Which Homeopathic Drugs May be Marketed, available at http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm074360.htm.

[9] While there is a HPUS monograph for carbon monoxide, it is inapplicable when the designated medical gas is not labeled as a homeopathic. See FDA's Compliance Policy Guide 400.400.

[10] See generally section 505(a) of the FD&C Act for human drugs and sections 501(a)(5) and 512(a)(1)(A) and of the FD&C Act for animal drugs.

the original manufacturer of the gas, that is, the person or entity that initially produces the gas by chemical reaction, physical separation, compression of atmospheric air, or other means. In some instances, original manufacturers may produce gases solely for industrial or other non-medical uses. Such manufacturers are not subject to the certification requirements in the FD&C Act. However, if a person or entity downstream is the first to market that gas as a medical gas (e.g., after re-processing an industrial gas into a medical gas for human or animal use), that person or entity must obtain a certification to lawfully market the designated medical gas.

A person or entity that markets a medical gas but is neither the original manufacturer nor the original marketer of that gas should not submit a certification request, even if that person or entity is the first to market the gas in containers conforming to the requirements for labeling at 576(a)(3)(A)(ii).[11] Such downstream persons or entities should, however, verify and document that the gas or gases they receive are from a source or sources that have a granted certification for the gas (see Part VI below).

Requestors should submit separate certification requests for each designated medical gas they produce (e.g., one request for oxygen, another for nitrous oxide), but need only submit a single request for each gas regardless of whether the gas is manufactured in multiple facilities or by multiple methods.

The certification process is the same for designated medical gases intended for human drug use and animal drug use. The attached form has a box for requestors to indicate whether they wish to market their gas for human use, animal use, or both. Upon grant of a certification, FDA will issue the requestor an NDA number, a NADA number, or both.

Persons or entities that wish to market a medical gas that is a combination of one or more designated medical gases need not, and should not, seek certification for the combination of the two designated medical gases. Rather, they may lawfully market medically appropriate combinations of designated medical gases under the certification process so long as each designated medical gas is covered by a granted certification (see section 576(a)(3)(A)(i) of the FD&C Act).

The certification process only applies to designated medical gases and only for the indications specified in section 576 of the FD&C Act.[12] A person or entity seeking to market a medical gas

[11] We note that such downstream persons or entities commonly perform certain manufacturing or processing operations (e.g., combining gases or transfilling a gas from one container to another). Such persons or entities must comply with all applicable current good manufacturing practices (CGMPs) (see 21 CFR Parts 210 and 211) as well as all applicable drug registration and listing requirements (see section 510 of the FD&C Act and 21 CFR Part 207). In addition, should such downstream manufacturing or processing operations cause the product to fall outside the scope of the certification scheme (e.g., should they result in a single gas product that no longer meets the applicable compendial standard or a combination gas product that is not a medically appropriate combination of certified designated medical gases), the resulting product will not be considered to be covered by any upstream certification or certifications, and would have to be separately approved under the FD&C Act. See footnote 14 and accompanying text.

[12] See section 576(a)(3)(A)(i) of the FD&C Act.

or combination of medical gases that falls outside the scope of this certification process should obtain approval of that medical gas or combination of medical gases under a different approval pathway (e.g., an NDA or a NADA under sections 505 and 512 of the FD&C Act along with the implementing regulations at 21 CFR Part 314 and 21 CFR Part 514).[13]

B. What information should be submitted?

This section is organized to follow the format in the attached form.

1. Requestor Information

Section 576(a)(1)(B) requires the certification request to include the name and address of the sponsor. FDA also requests additional contact information for the person or entity requesting the certification (email address and phone number), along with the name, address, and other contact information of an authorized U.S. agent if applicable. FDA will use this information to communicate with the requestor as necessary.

2. Type of Submission

The requestor should indicate the type of submission as one of the following: Original Certification Request (for either new human or animal drugs, or both), Amendment to a Pending Certification Request, Resubmission, or Other.[14] For submissions other than original certification requests, the requestor should briefly describe the purpose of the submission (e.g., an amendment to supply additional information regarding manufacturing facilities). Following receipt of an original certification request, FDA plans to provide the requestor an NDA and/or NADA number in an acknowledgment letter. The requestor should include their NDA and/or NADA number in all further submissions related to the gas to which that certification request applies.

3. Description of Medical Gas

Section 576(a)(1)(A) requires that the certification request include a description of the medical gas. This description must include the name of the gas and information sufficient to support that the gas "meets the standards set forth in an official compendium" (see section 575(1)).

4. Facility Information

[13] The following products and/or indications fall outside the scope of the certification process: (1) any designated medical gas for any indication other than the indications listed in section 576(a)(3)(A)(i) or later added in accordance with section 576(a)(3)(A)(i)(VIII), (2) any other medical gas for any indication, or (3) any combination of medical gases other than medically appropriate combinations of certified designated medical gases for one or more of the indications specified at 576(a)(3)(A)(i) or later added in accordance with section 576(a)(3)(A)(i)(VIII).

[14] The "Other" category is intended as a catch-all for any submissions that do not fit into one of the other provided categories. For example, a sponsor would check "Other" to submit information concerning a new manufacturing facility in connection with a previously-granted certification.

Section 576(a)(1)(C) requires that the certification request include the name and address of the facility or facilities where the medical gas is or will be manufactured. FDA requests that contact information be included for each facility involved in original manufacturing or processing of the designated medical gas. When the requestor is not the original manufacturer of the gas (if, for example, the original manufacturer produced the gas for industrial use), the requestor need only list the facilities involved in re-processing the gas into a designated medical gas. FDA also asks that the requestor briefly describe the manufacturing or processing activities performed at each facility so that FDA understands the role each plays in manufacturing or processing the gas.

The requestor should include the Data Universal Numbering System (D-U-N-S) number for each facility, along with the facility's FDA Establishment Identifier (FEI) if one exists. If a D-U-N-S number has not been assigned, the facility may obtain one directly from Dun & Bradstreet (http://www.dnb.com) at no cost.

5. Additional Information

The requestor should affirm (by checking the appropriate box on the attached form) that the requestor's methods, facilities, and controls used for the manufacture, processing, and handling of the gas, as applicable, are adequate to ensure its identity, strength, quality, and purity (see sections 501(a)(2)(B) and 505(d) of the FD&C Act, and 21 CFR Parts 210 and 211). Pursuant to Section 576(a)(1)(D), the requestor must also provide any other information which the Secretary may, in the future, deem appropriate to determine whether the medical gas is a designated medical gas.

C. How should a requestor submit the certification request?

FDA asks the requestor to submit the certification request by following the instructions on the attached form. As previously noted, the attached form should be used to indicate whether the requestor expects to market the designated medical gas for human use, animal use, or both.

D. How should information in a certification request be updated or corrected?

If the original information submitted in connection with a certification request becomes incomplete or inaccurate at any time, including after the request has been granted, the requestor should resubmit its certification request, submitting both a complete new form and a cover letter clearly explaining the purpose of the submission and highlighting the updated or corrected information. Updated or corrected information to the information originally submitted on this form other than adding a new manufacturing facility can be submitted in this manner. If the update or change involves adding a new manufacturing facility requestors should notify the FDA of the change by submitting a "changes being effected" supplement under 21 CFR 314.70(c) or 21 CFR 514.8(b)(3).[15] All other submissions must be made in accordance with 21 CFR 314.70 or 21 CFR 514.8 as appropriate. The requestor should also update its registration and listing data as appropriate.

[15] See 21 CFR 314.70(a)(3) and 21 CFR 514.8(b)(1)(iii).

V. EVALUATING A CERTIFICATION REQUEST

A. Review of Request for Certification

As provided in section 576(a)(2) of the FD&C Act, a certification request is deemed to be granted unless, within 60 days of filing, FDA finds that (1) the gas to which the request applies is not a designated medical gas, (2) the request does not contain the information required by section 576(a)(1) or otherwise lacks sufficient information to permit FDA to determine whether the gas is a designated medical gas, or (3) denying the request is necessary to protect the public health.

If the medical gas does not meet the applicable official compendial standards (e.g., the requestor fails to affirm that the medical gas meets the applicable compendial standards), FDA will not grant a certification request for such gas. FDA may find that it lacks sufficient information to determine whether the gas for which certification is sought is a designated medical gas if the available information, including the information submitted with the request, is insufficient to assure FDA that the gas meets the applicable compendial standards and that the requestor's methods, facilities, and controls used for the manufacture, processing, and handling of the gas, as applicable, are adequate to ensure its identity, strength, quality, and purity. FDA will not grant a certification request if it cannot determine whether the gas is a designated medical gas. Finally, FDA may conclude that denying the request is necessary to protect the public health.

In determining whether a request should be denied, FDA will consider information submitted with the request along with any other available, relevant information, including information obtained from state or federal officials, FDA inspection reports, or any other source.

B. Communication with the Requestor

FDA plans to send an acknowledgement letter to the requestor after receipt of a certification request.

FDA may contact the requestor to request additional information. If required information is not included in the request, and if FDA is not able to contact the requestor to obtain and evaluate the information within the 60 day review period, FDA may find that the request lacks sufficient information to permit a determination that the gas is a designated medical gas (see section 576(a)(2)(B) of the FD&C Act).

Unless, within 60 days of filing, FDA makes a finding that the certification request should not be granted, the certification request is deemed to be granted. See section 575(a)(2) of the FD&C Act. In this case, the designated medical gas will be granted a certification, and will have in effect an approved application under sections 505, 512, or both, as applicable, for the indications for use specified in 576(a)(3) of the FD&C Act, subject to all applicable post-approval requirements. FDA plans to issue a second letter to the requestor stating that the certification request has been granted. This letter will include an NDA and/or NADA number which the sponsor should include in all further submissions to the Agency.

If FDA makes one of the findings listed at section 576(a)(2) of the FD&C Act, however, FDA will notify the requestor within 60 days of filing that the certification request has not been granted. In such an instance, FDA plans to issue a letter explaining its determination to the requestor. If the requestor chooses to re-submit its certification request, it should provide a written response to the deficiencies identified in FDA's letter, along with the attached form.

C. Revocation of Certification; Withdrawal or Suspension of Approval

Section 576(a)(4)(A) of the FD&C Act states that FDA may withdraw or suspend approval of a drug product, including a designated medical gas deemed under section 576 to have in effect an approved application under section 505 or 512 of the FD&C Act. In addition, FDA may revoke the grant of a certification if it determines that the certification request contained any material omission or falsification. See section 576(a)(4)(B) of the FD&C Act.

VI. ENFORCEMENT OF CERTIFICATION REQUIREMENT

All medical gases intended for human or animal drug use that are not certified or do not otherwise have an approved marketing application will be considered unapproved new drugs or unapproved new animal drugs and may be subject to enforcement action. This includes designated medical gases marketed for any indication other than those listed at section 576(a)(3)(A)(i) of the FD&C Act

Sections 575 and 576 of the FD&C Act provide a streamlined mechanism for obtaining approval, and FDA expects original manufacturers or marketers of designated medical gases eligible for certification to obtain approvals for such gases through this certification process.

As noted in Part IV.A, a person or entity that markets a medical gas but is neither the original manufacturer nor the original marketer should not obtain a granted certification but should verify and document that the gas or gases they receive are from a certified source or sources. Documentation should include the name of the original manufacturer(s) or marketer(s) as well the applicable new drug application number or numbers associated with the gas, and should be verified by reference to the FDA database "Drugs@FDA," a searchable database available at http://www.accessdata.fda.gov/scripts/cder/drugsatfda/ that contains a record of all granted certifications. Each downstream customer should obtain documentation from their immediate supplier. Proper certification by a supplier or suppliers should be verified initially for existing suppliers and for new suppliers as part of a vendor qualification process. Once a new vendor or existing supplier has been qualified initially and the certification of the gas or gases confirmed, this documentation can consist of an annual letter from the immediate supplier attesting or certifying that the gas was originally manufactured at one or more firms with granted certifications. The letter should contain the above-mentioned items of information for each certified original source. We recommend that this statement of certified original sources be updated to reflect any changes with each annual renewal.

FDA does not plan to grant certification requests for carbon monoxide until a monograph for that medical gas is added to the USP or the NF. FDA does not intend to object to the marketing of carbon monoxide for use in lung diffusion testing as long as the product conforms to an

acceptable alternative compendial standard.[16] If and when a monograph entitled "Carbon Monoxide" is added to the USP or NF, original manufacturers and/or marketers of carbon monoxide should promptly submit a certification request.

[16] See FDA's Manual of Policies and Procedures, MAPP 5310.7, Acceptability of Standards from Alternative Compendia, available at http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/ManualofPoliciesProcedures/ucm079841.pdf.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration

Request for Certification of Designated Medical Gas

Form Approved: OMB No. xxxx-xxxx
Expiration Date: Xxxxxxx xx, 201x
See PRA Statement on last numbered page.

1. Requestor Information

Requestor Name*

Requestor Address*

Address 1

Address 2 *(if applicable)*

City	State/Province/Region	ZIP or Postal Code

Country *(If not United States please provide contact information for authorized U.S. agent in "Contact Information" field below.)*

Contact Information *(Enter address only if different from above.)*

Name

Title

Address 1

Address 2 *(if applicable)*

City	State/Province/Region	ZIP or Postal Code

Country *(if applicable)*

Telephone Number	Email Address	Fax Number

2. Type of Submission *(Select only one.)*

- ☐ Original Certification Request to Market Gas for Human Drug Use
- ☐ Original Certification Request to Market Gas for Animal Drug Use
- ☐ Original Certification Request to Market Gas for Human and Animal Drug Use
- ☐ Amendment to Pending Certification Request
- ☐ Resubmission
- ☐ Other *(specify)*: _____

NDA or NADA Number *(Does not apply to original certification request.)*: _____

Reason for Submission *(Does not apply to original certification request.)*

3. Description of Medical Gas*

Select the medical gas to which this request applies (select only one). By checking one of the following boxes you indicate that the gas to which this request applies satisfies the compendial standard listed in connection with the gas.

- ☐ Oxygen, USP
- ☐ Nitrogen, NF
- ☐ Nitrous oxide, USP
- ☐ Carbon dioxide, USP
- ☐ Medical Air, USP
- ☐ Helium, USP

4. Facility Information

Provide the following information regarding each facility involved in the manufacture and processing of the medical gas to which this request applies.

Name of Facility*

Facility Address*

Address 1

Address 2 *(if applicable)*

City	State/Province/Region	ZIP or Postal Code

Country *(if applicable)*

Other Facility Information

Facility D-U-N-S Number	Facility FEI Number

Briefly describe the manufacturing or processing performed at the above facility in connection with the gas to which this request applies.

Add additional facility

5. Additional Information

Check the following box to indicate that your methods, facilities, and controls used for the manufacture, processing, and handling of the gas to which this request applies are adequate to ensure its identity, strength, quality, and purity. ☐

Provide any other information you believe will assist FDA in evaluating your request.

6. Signature(s)

By my signature I hereby certify that the data and information in this submission have been reviewed and, to the best of my knowledge, are true and accurate. WARNING: A willfully false statement is a criminal offense, U.S. Code, title 18, section 1001.

Applicant

Name and Title

Signature of Applicant	Date of Request *(mm/dd/yyyy)*

Authorized U.S. Agent *(if applicable)*

Name and Title	Telephone Number

Signature of Authorized U.S. Agent	Date *(mm/dd/yyyy)*

This section applies only to requirements of the Paperwork Reduction Act of 1995.

–DO NOT SEND YOUR COMPLETED FORM TO THE PRA STAFF ADDRESS BELOW.–

The burden time for this collection of information is estimated to average 2 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden, to:

Department of Health and Human Services
Food and Drug Administration
Office of Chief Information Officer
Paperwork Reduction Act (PRA) Staff
1350 Piccard Drive, Room 400
Rockville, MD 20850

"An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB number."

Instructions for Submitting Request for Certification of Designated Medical Gas Using Form FDA 3864

1. REQUESTOR INFORMATION: The name and contact information of the legal person or entity submitting the certification request should be provided in the indicated areas. For non-U.S. requestors the name and contact information of the legal person or entity authorized to represent the requestor should be entered in the "Contact Information" field.

2. TYPE OF SUBMISSION: The submission type should be indicated by checking the appropriate box. If any box other than one of the three 'original certification request' boxes is checked an explanation should be provided in the "Reason for Submission" block (e.g., "Response to 02/15/13 Information Request Letter" or "Amendment to Supply Additional Information Regarding Manufacturing Facilities"). The NDA and/or NADA number should also be provided if known.

Original Certification Request – A certification request submitted by a person or entity to market a particular medical gas for human use, animal use, or both.

Amendment to a Pending Certification Request – Any submission to a pending certification request, including responses to Information Request Letters.

Resubmission – Any complete certification request submitted by a person or entity for a particular medical gas that has been previously denied certification.

Other – Any submission that does not fit in one of the other categories.

3. DESCRIPTION OF MEDICAL GAS: The requestor should affirm that the medical gas to which the request applies meets the applicable compendial standard.

4. FACILITY INFORMATION: Only a brief description sufficient to enable FDA to understand the role of each facility involved in the manufacture and processing of the gas to which the certification request applies need be provided in this section. For example, "production of [gas] by physical separation" or production of [gas] by purification." If the D-U-N-S® Number for a facility has not been assigned, one may be obtained for no cost directly from Dun & Bradstreet (http://www.dnb.com). If an FDA Establishment Identifier (FEI) exists for the facility it should be included.

5. ADDITIONAL INFORMATION: The requestor should affirm that its methods, facilities, and controls used for the manufacture, processing, and handling of the gas, as applicable, are adequate to preserve the identity, strength, quality, and purity of the gas. If the requestor believes any other information would be useful for FDA to consider, it may provide that information in this section as well.

6. SIGNATURE(S): The form must be signed and dated. Ordinarily only one person should sign the form: the requestor, or the requestor's attorney, agent, or other authorized official. However, if the person signing the request does not reside or have a place of business within the United States, the request should be countersigned by an attorney, agent, or other authorized official who resides or maintains a place of business within the United States.

SUBMISSION: Send three copies of the completed, signed Form FDA 3864 with three copies of a cover letter to: Central Document Room, 5901B Ammendale Road, Beltsville, MD 20705. The cover letter should clearly identify the nature of the submission (for example, Original Certification Request to Market Gas for Human and Animal Drug Use). The cover letter should also provide the NDA and/or NADA number if known.