POLICY AND PROCEDURES

OFFICE OF GENERIC DRUGS

Prescription to Nonprescription Switches and Abbreviated New Drug Applications

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PURPOSE

This MAPP describes the policies and procedures for the Office of Generic Drugs (OGD) when a reference listed drug (RLD) switches from prescription to nonprescription marketing status. Specifically, the procedures for OGD to send notifications to approved abbreviated new drug application (ANDA) holders regarding the need to submit additional information, including updated labeling for the ANDA for prescription-to-nonprescription switches are described below.[1]

This MAPP applies to full prescription-to-nonprescription switches after the Food and Drug Administration (FDA or Agency) has determined that there is no clinically meaningful difference between a generic drug product that is the subject of an approved ANDA and a drug product that was switched to nonprescription status under an approved new drug application (NDA). This MAPP does not apply to partial prescription-to-nonprescription switches or unapproved ANDAs.[2]

[1] This MAPP applies to updated labeling; however, there may be additional information that an ANDA holder needs to submit as a result of the particular RLD's prescription-to-nonprescription switch.

[2] Although the procedures in this MAPP do not apply to partial switches, OGD generally expects that at the earliest time possible and within six months after FDA approves a partial switch, approved ANDA holders

BACKGROUND

An NDA holder can seek FDA approval to change the marketing status of a drug product from prescription to nonprescription with either a full prescription-to-nonprescription switch or a partial prescription-to-nonprescription switch.[3] With a full prescription-to-nonprescription switch, an NDA holder switches the prescription drug product covered under the NDA to nonprescription marketing status, and the only labeling that remains under the NDA is for the nonprescription drug product. To initiate a full prescription-to-nonprescription switch, an NDA holder submits a supplement to the approved NDA. After FDA approves the full prescription-to-nonprescription switch, the drug product can only be lawfully marketed as a nonprescription drug product.[4]

The labeling of a drug product that is subject to the prescription dispensing provisions of section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (i.e., a prescription drug product) must bear, at a minimum, the "Rx only" symbol, or else it is misbranded.[5] A drug product to which the prescription provisions of the FD&C Act do not apply (i.e., a nonprescription drug product) will be deemed to be misbranded if the label of the drug product bears the "Rx only" symbol.[6]

FDA believes that the best way to read the language in section 503(b)(4) of the FD&C Act is to allow simultaneous marketing of drug products with the same active ingredient as prescription in one case and nonprescription in another case if some clinically meaningful difference, such as a difference in indication, strength, route of administration, dosage form, or patient population, exists between the drug products that makes the prescription drug product safe only under the supervision of a healthcare practitioner licensed by law to administer the drug product.[7] This means that, absent a clinically meaningful difference between the products that makes the prescription drug product safe only under the supervision of a healthcare practitioner licensed to administer the drug, simultaneous marketing of two drug products with the same active ingredient as

update their labeling to reflect the labeling in an appropriate RLD. See sections 502(a) and 503(b)(4) of the Federal Food, Drug, and Cosmetic Act. The procedures in this MAPP also do not apply to applications approved with an Additional Condition for Nonprescription Use (ACNU) as set forth in 21 CFR 314.56.

[3] With a partial switch, an NDA holder for a prescription drug can submit a new NDA for a nonprescription drug that includes some but not all of the conditions of use in the NDA that was approved for prescription marketing (e.g., indications). After the approval of a partial switch, certain conditions of use covered by the new NDA no longer appear in the NDA for the prescription drug. As stated in the Purpose section, this MAPP does not apply to partial prescription-to-nonprescription switches.

[4] See section 503(b)(4) of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

[5] Section 503(b)(4)(A) of the FD&C Act.

[6] Section 503(b)(4)(B) of the FD&C Act.

[7] See, e.g., 87 FR 68702 at 68703-4 (November 16, 2022) and 83 FR 13994 at 13995 (April 2, 2018).

a prescription drug product and a nonprescription drug product would result in the prescription drug product being misbranded.[8]

POLICY

- An ANDA for a drug product referencing an NDA that switches from prescription to nonprescription must update its labeling with the relevant changes.[9] ANDA holders should submit revised ANDA labeling at the earliest time possible and within six months after FDA approves the NDA's full prescription-to-nonprescription switch because the labeling of a generic drug generally must be the same as that of the RLD (with certain permissible differences).[10]

- FDA does not consider a full prescription-to-nonprescription switch NDA drug product approved through an NDA supplement to be a "different listed drug" within the meaning of section 505(j)(2)(D)(i) of the FD&C Act.[11] Thus, holders of ANDAs referencing that NDA are permitted to submit supplements or amendments to their ANDAs, as applicable, rather than completely new ANDAs, to update their labeling to reflect nonprescription status and address the RLD's updated labeling.[12]

- FDA may withdraw approval of an ANDA if FDA finds that the labeling for the drug product that is the subject of the ANDA is no longer consistent with that for the RLD.[13]

- It is the ANDA holder's responsibility to monitor for RLD labeling changes and to submit revised ANDA labeling to FDA in a timely fashion;[14] however, as discussed below, OGD intends to notify approved ANDA holders of the NDA's full prescription-to-nonprescription switch to help ensure that prescription and

[8] Ibid.

[9] See, e.g., sections 502(a) and 503(b)(4) of the FD&C Act.

[10] See sections 505(j)(2)(A)(v) and 505(j)(4)(G) of the FD&C Act, and 21 CFR 314.94(a)(8) and 314.127. See also the guidance for industry *Revising ANDA Labeling Following Revision of the RLD Labeling* (January 2024) at page 3.

[11] See 80 FR 6802, 6854 (February 6, 2015).

[12] Additional information regarding supplements and amendments can be found in the guidances for industry *Changes to an Approved NDA or ANDA* (April 2004, Rev. 1), *ANDA Submissions – Prior Approval Supplements Under GDUFA* (October 2022, Rev. 2), and *ANDA Submissions – Amendments to Abbreviated New Drug Applications Under GDUFA* (September 2024). For the most recent version of a guidance, visit FDA's guidance web page at https://www.fda.gov/regulatory-information/search-fda-guidance-documents.

[13] See section 505(e) of the FD&C Act and 21 CFR 314.150(b). FDA may take other steps prior to withdrawing approval.

[14] See the guidance for industry *Revising ANDA Labeling Following Revision of the RLD Labeling* (January 2024).

nonprescription versions of the same drug that do not have a clinically meaningful difference are not marketed at the same time.

RESPONSIBILITIES AND PROCEDURES

1. After FDA determines that there is no clinically meaningful difference between the prescription drug product and the nonprescription drug product and approves an NDA supplement for a full prescription-to-nonprescription switch, the OGD Office of Regulatory Operations (ORO) Division of Labeling Review (DLR) project manager intends to send a written notification (see Attachment 1) to the applicable approved ANDAs to inform the ANDA holders of the need to take appropriate steps regarding their application, due to the updated nonprescription drug labeling for the RLD.[15]

2. The DLR project manager will track whether the ANDA holders address the change, including by submitting the appropriate supplement, withdrawing the ANDA, or submitting correspondence to the ANDA with their intended path and timeline for submission.

3. If an ANDA holder does not address the change, such as by submitting the appropriate supplement, withdrawing the ANDA, or contacting OGD to discuss the intended pathway and timeline for submission within six months of the above notification, the DLR project manager intends to send a follow-up notification (see Attachment 2) to the ANDA holder.

4. If the ANDA holder does not respond within 30 days of the follow-up notification, OGD will discuss potential next steps with CDER's Office of Compliance and other applicable FDA offices.

REFERENCES

- Guidance for industry *ANDA Submissions – Amendments to Abbreviated New Drug Applications Under GDUFA* (September 2024)
- Guidance for industry *Changes to an Approved NDA or ANDA* (April 2004, Rev. 1)
- Guidance for industry *ANDA Submissions – Prior Approval Supplements Under GDUFA* (October 2022, Rev. 2)
- Guidance for industry *Revising ANDA Labeling Following Revision of the RLD Labeling* (January 2024)

[15] In certain circumstances, an exclusivity determination by FDA, patent information submitted by the NDA holder, or both, may impact the timing for OGD to send the notification to the ANDA holder and for the ANDA holder to take appropriate steps.

EFFECTIVE DATE

- This MAPP is effective upon date of publication.

CHANGE CONTROL TABLE

Effective Date	Revision Number	Revisions
12/08/2025	Initial	N/A

ATTACHMENT 1 – NOTIFICATION FOR FULL PRESCRIPTION-TO-NONPRESCRIPTION SWITCH TEMPLATE

This letter is in reference to your abbreviated new drug application (ANDA) [ANDA number] for [drug product].

A supplement to the reference listed drug (RLD) [RLD name], NDA [NDA number], has been approved to, among other things, change the marketing status of the drug product from prescription to nonprescription.

Under section 503(b)(4)(B) of the Federal Food, Drug, and Cosmetic Act, your [drug product] product bearing the "Rx only" symbol can no longer be lawfully marketed. It is considered misbranded if the label bears the "Rx only" symbol and is potentially subject to Food and Drug Administration (FDA) regulatory action.

Please submit a correspondence to your ANDA within thirty (30) days of the date of this letter, indicating your intended path and timeline.

If you intend to submit a supplement, you should ensure that your submission addresses any changes to the RLD's patent or exclusivity information listed in FDA's publication *Approved Drug Products with Therapeutic Equivalence Evaluations* (the Orange Book).

To facilitate review of your submission, please provide a side-by-side comparison of your proposed labeling and the labeling of the RLD, with all differences annotated and explained.

Prior to your submission, please check labeling resources, including DRUGS@FDA, the electronic Orange Book, and the U.S. Pharmacopeia and National Formulary (USP-NF) online, for recent updates and make any necessary revisions to your labeling.

In addition, FDA maintains LISTSERVs that provide information about new approvals and announcements related to labeling updates. For email updates, subscribe to *CDER Drug Safety Labeling Changes* and *CDER New* at https://www.fda.gov/about-fda/contact-fda/get-email-updates.

If you have any questions, please contact [point of contact], Labeling Project Manager at [phone] or [e-mail].

ATTACHMENT 2 – FOLLOW-UP NOTIFICATION FOR FULL PRESCRIPTION-TO-NONPRESCRIPTION SWITCH TEMPLATE

This letter is in reference to your abbreviated new drug application (ANDA) [ANDA number] for [drug product].

A supplement to the reference listed drug (RLD) has been approved to, among other things, change the marketing status of the drug product from prescription to nonprescription.

Please refer to the previous correspondence from the Food and Drug Administration (FDA) dated [date notification was sent to applicant] regarding the conversion from prescription to nonprescription status for NDA [NDA number] and associated labeling changes. To date, we have not received a reply to that correspondence.

Your [drug product] product bearing the "Rx only" symbol can no longer be lawfully marketed. It is considered misbranded if the label bears the "Rx only" symbol and is potentially subject to FDA regulatory action (see, e.g., section 503(b)(4)(B) of the FD&C Act).

If you intend to submit a supplement, you should submit the supplement within thirty (30) days and ensure that your submission addresses any changes to the RLD's patent or exclusivity information listed in FDA's publication *Approved Drug Products with Therapeutic Equivalence Evaluations* (the Orange Book).

If you have any questions, please contact [point of contact] Labeling Project Manager at [phone] or [email].