

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2014-D-1524]

Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of a draft guidance for industry entitled “Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities.” This guidance describes the conditions under which FDA does not intend to take action for violations of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), when a state-licensed pharmacy, a Federal facility, or an outsourcing facility repackages human drug products.

When this guidance becomes final, the Agency may also consider withdrawing or revising other guidance documents that address human drug repackaging, including section 446.100 of the Compliance Program Guidance (CPG) Manual, entitled “Regulatory Action Regarding Approved New Drugs and Antibiotic Drug Products Subjected to Additional Processing or other Manipulations,” which was issued in January 1991, and section 460.100 of the CPG Manual, entitled “Hospital Pharmacies--Status as Drug Manufacturer,” which was issued in October 1980.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on

the final version of the guidance, submit either electronic or written comments on the draft guidance by [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the SUPPLEMENTARY INFORMATION section for electronic access to the guidance document.

Submit electronic comments on the guidance to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gail Bormel, Food and Drug Administration, 10001 New Hampshire Ave., Silver Spring, MD 20903, 301-796-3110.

SUPPLEMENTARY INFORMATION:

I. Announcement of Draft Guidance

FDA is announcing the availability of a draft guidance for industry entitled “Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities.” FDA regards repackaging as the act of taking a finished drug product from the container in which it was distributed by the original manufacturer and placing it into a different container without further manipulation of the drug. If a drug is manipulated in any other way, including if the drug is reconstituted, diluted, mixed, or combined with another ingredient, that act is not considered repackaging.

Repackaged drugs are generally not exempt from any of the provisions of the FD&C Act related to the production of drugs. For example, repackaged drugs are generally subject to the premarket approval, misbranding, and adulteration provisions of the FD&C Act, including section 505 (concerning new drug applications), section 502(f)(1) (concerning labeling with adequate directions for use), and section 501(a)(2)(B) (concerning current good manufacturing practice (CGMP) (21 U.S.C. 355, 352(f)(1), and 351(a)(2)(B) of the FD&C Act).

Further, drugs that are repackaged are not subject to sections 503A and 503B of the FD&C Act (21 U.S.C. 353a and 353b). Therefore, drugs repackaged by state-licensed pharmacies, Federal facilities, or outsourcing facilities are not eligible for the exemptions provided under those sections.

This draft guidance describes the conditions under which FDA does not intend to take action for violations of sections 505, 502(f)(1), and, where specified in the guidance, section 501(a)(2)(B) of the FD&C Act, when a state-licensed pharmacy, Federal facility, or registered outsourcing facility repackages drug products. The guidance does not address repackaging of nonprescription drugs; drugs that are intended for use in animals; biological products subject to licensure under section 351 of the Public Health Services Act (42 U.S.C. 262); repackaging by entities that are not state-licensed pharmacies, Federal facilities, or registered outsourcing facilities; removing a drug product from the original container at the point of care for immediate administration to a single patient after receipt of a patient-specific prescription or order for that patient; or repackaging a solid oral dosage form drug product by a state-licensed pharmacy for purposes of dispensing the drug to a patient upon receipt of an individual patient-specific prescription.

Elsewhere in this issue of the Federal Register, the Agency is making available for comment a draft guidance entitled “Mixing, Diluting, or Repackaging of Biological Products Outside the Scope of an Approved Biologics License Application.” When these two guidances become final, they will address and clarify the Agency’s policy regarding hospital pharmacies repackaging and safely transferring repackaged drugs to other hospitals within the same health system during a drug shortage. Therefore, under section 506F(d) of the FD&C Act, when FDA issues these as final guidances, section 506F will no longer apply.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). This guidance, when finalized, will represent FDA’s current thinking on repackaging human drug products by pharmacies, Federal facilities, and outsourcing facilities. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Amendment or Withdrawal of Repackaging Guidance Documents

When this guidance becomes final, the Agency may also consider withdrawing or revising other guidance documents that address human drug repackaging. These may include section 446.100 of the CPG Manual, entitled “Regulatory Action Regarding Approved New Drugs and Antibiotic Drug Products Subjected to Additional Processing or other Manipulations,” which was issued in January 1991, and section 460.100 of the CPG Manual, entitled “Hospital Pharmacies--Status as Drug Manufacturer,” which was issued in October 1980.

III. Comments

Interested persons may submit either electronic comments regarding this document to <http://www.regulations.gov> or written comments to the Division of Dockets Management (see

ADDRESSES). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at <http://www.regulations.gov>.

IV. Paperwork Reduction Act of 1995

This draft guidance contains information collection provisions that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The title, description, and respondent description of the information collection are given under this section with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Repackaging of Certain Human Drug Products by Pharmacies and Outsourcing Facilities; Guidance for Industry

Description: The draft guidance describes repackaging by state-licensed pharmacies, Federal facilities, and outsourcing facilities under section 503B of the FD&C Act, and it describes the conditions under which FDA does not intend to take action for violations of sections 505, 502(f)(1), and where specified, section 501(a)(2)(B) of the FD&C Act, when a state-licensed pharmacy, or Federal facility, or an outsourcing facility repackages drug products. The draft guidance includes the following collection of information under the PRA:

One condition in the draft guidance is that if a drug is repackaged by an outsourcing facility, the label on the immediate container (primary packaging, e.g., the syringe) of the repackaged product includes the following information:

- The statement “This drug product was repackaged by [name of outsourcing facility].”
- The address and phone number of the outsourcing facility that repackaged the drug product.
- The established name of the original, approved drug product that was repackaged.
- The lot or batch number of the repackaged drug product.
- The dosage form and strength of the repackaged drug product.
- A statement of either the quantity or volume of the repackaged drug product, whichever is appropriate.
- The date the drug product was repackaged.
- The beyond-use-date of the repackaged drug product.
- Storage and handling instructions for the repackaged drug product.
- The National Drug Code (NDC) number of the repackaged drug product, if available¹.

¹ The NDC number of the original approved drug product should not be placed on the repackaged drug product.

- The statement “Not for resale,” and, if the drug is distributed by an outsourcing facility other than pursuant to a prescription for an individual identified patient, the statement “Office Use Only.”
- If included on the label of the FDA-approved drug product from which the drug product is being repackaged, a list of the active and inactive ingredients, unless such information is included on the label for the container from which the individual units are removed, as described in this document.

In addition, a condition in the draft guidance is that the label on the container from which the individual units are removed for administration (secondary packaging, e.g., the bag, box, or other package in which the repackaged products are distributed) includes the active and inactive ingredients, if the immediate product label is too small to include this information, and directions for use, including, as appropriate, dosage and administration, and the following information to facilitate adverse event reporting: <http://www.fda.gov/medwatch> and 1-800-FDA-1088.

Another condition in the draft guidance is that each repackaged drug product is accompanied by a copy of the prescribing information that accompanied the original drug product that was repackaged.

We estimate that annually a total of approximately 10 outsourcing facilities (“Number of Respondents” in table 1, row 1) will each design, test, and produce approximately 10 different labels (“Frequency per Disclosure” in table 1, row 1) for a total of 100 labels that include the information set forth in section III.A.11 of the draft guidance (including directions for use) (“Total Disclosures” in table 1, row 1). We also estimate that designing, testing, and producing each label will take approximately 0.5 hours for each repackaged drug product (“Hours per Disclosure” in table 1, row 1). The provision to add the statement <http://www.fda.gov/medwatch>

and 1-800-FDA-1088 is not included in this burden estimate because it is not considered a collection of information under the PRA because the information is “originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public” (5 CFR 1320.3(c)(2)).

We also estimate that annually a total of approximately 10 outsourcing facilities (“Number of Respondents” in table 1, row 2) will each produce a copy of prescribing information as set forth in section III.A.11 of the draft guidance for approximately 10 repackaged drug products (“Frequency per Disclosure” in table 1, row 1) for a total of 100 disclosures (“total disclosures” in table 1, row 2). We also estimate that providing prescribing information labeling will take approximately 1 hour for each repackaged drug product (“Hours per Disclosure” in table 1, row 2). The provision to add <http://www.fda.gov/medwatch> and 1-800-FDA-1088 is not included in this burden estimate because it is not considered a collection of information under the PRA because the information is “originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public” (5 CFR 1320.3(c)(2)).

The total estimated third-party disclosure burden resulting from the draft guidance is as follows:

Table 1.--Estimated Annual Third-Party Disclosure Burden

Repackaging by Outsourcing Facilities	Number of Respondents	Frequency per Disclosure	Total Disclosures	Hours per Disclosure	Total Hours
Designing, testing, and producing each label on immediate containers, packages and/or outer containers	10	10	100	.5 (30 minutes)	50
Prescribing information labeling produced for each repackaged drug product	10	10	100	1	100
Total					150

There are no capital costs or operating and maintenance costs associated with this collection of information.

The draft guidance also references registration, product reporting, and CGMP requirements for outsourcing facilities. In the Federal Register of December 4, 2013 (78 FR

72899), FDA estimated the burden resulting from outsourcing facility registration. In the Federal Register of December 4, 2013 (78 FR 72897), FDA estimated the burden resulting from outsourcing facility interim product reporting. In the Federal Register of July 2, 2014 (79 FR 37743), FDA estimated the burden resulting from outsourcing facility compliance with CGMP requirements.

V. Electronic Access

Persons with access to the Internet can obtain the document at either

<http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>

or <http://www.regulations.gov>.

Dated: February 11, 2015.

Leslie Kux,

Associate Commissioner for Policy.