Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the FD&C Act

Guidance for Industry

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

Procedural
November 2014

Contains Nonbinding Recommendations

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Guidance for Industry[1]

This guidance represents the Food and Drug Administration's (FDA's or Agency's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the appropriate number listed on the title page of this guidance.

I. INTRODUCTION

This guidance is intended for facilities planning to register or renew registration as human drug compounding outsourcing facilities (outsourcing facilities). A compounder can elect to register with FDA as an outsourcing facility under section 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353b), as added by the Drug Quality and Security Act (DQSA), Pub. Law No. 113-54 (November 27, 2013). This guidance describes the process for electronic submission of establishment registration information for outsourcing facilities. In certain rare cases, FDA may grant an entity a waiver from submitting registration information electronically. This guidance also provides information on how to obtain such a waiver.

FDA's guidance documents, including this guidance, do not establish legally enforceable rights or 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 Agency guidances means that something is suggested or recommended, but not required.

II. BACKGROUND

A. Drug Quality and Security Act

The DQSA adds new section 503B to the FD&C Act. Under section 503B(b) of the FD&C Act, a compounder can elect to become an outsourcing facility and register with FDA. Each outsourcing facility must report to FDA certain information about the drug products it

[1] This guidance was prepared by the Office of Compliance, Center for Drug Evaluation and Research, at the Food and Drug Administration.

compounds. If the requirements in section 503B are met, drug products compounded in an outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C.355) and the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)). Outsourcing facilities will be inspected by FDA and must comply with other provisions of the FD&C Act, such as current good manufacturing practice (CGMP) requirements.[2]

After the initial registration, under section 503B(b) of the FD&C Act, a facility that elects to register with FDA as an outsourcing facility must also do so annually for each year thereafter that it wishes to remain an outsourcing facility, during the registration period between October 1 and December 31.To register as an outsourcing facility a compounder must provide its name, place of business, a unique facility identifier[3], and a point of contact email address (section 503B(b)(1)(A)(i)). The facility must also indicate whether it intends to compound, within the next calendar year, a drug that appears on FDA's drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e) (section 503B(b)(1)(A)(ii)), and whether it compounds from bulk drug substances, and, if so, whether it compounds sterile or nonsterile drugs from such bulk drug substances.[4]

B. Scope of this Guidance

This guidance document describes the process for registering as an outsourcing facility under section 503B of the FD&C Act. Separate guidances provide instructions on payment of registration fees and how outsourcing facilities should report to FDA the drug products they compound.[5] This guidance reflects FDA's current thinking in light of existing data standards, information technology, and information management resources. As these variables change over time, FDA may revisit this guidance and the specifications described in section III of this guidance.

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[2] FDA has issued a draft guidance on this topic (*Current Good Manufacturing Practice – Interim Guidance for Human Drug Compounding Outsourcing Facilities Under Section 503Bof the FD&C Act)*. Once finalized, that guidance will represent the Agency's thinking on this topic.

FDA's guidances are available on its guidance website. FDA updates guidances regularly. To make sure you have the most recent version of a guidance, visit the guidance website at http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.

[3] See the guidance for industry *Specification of the Unique Facility Identifier (UFI) System for Drug Establishment Registration*. Although this guidance is intended to address provisions set forth in section 510 of the FD&C Act, FDA's specification of the UFI system in this guidance also applies to facilities that register as outsourcing facilities under section 503B of the FD&C Act.

[4] Although section 503B(b)(1)(A) does not specifically identify this information regarding bulk drug substances, section 503B(b)(1)(B)(ii) requires FDA to publish this information on the Internet (see section III.B.3 below). Therefore, FDA is requiring that this information be supplied as part of the registration submission.

[5] See guidances for industry *Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act* and *Electronic Product Reporting for Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act*.

III. REGISTERING WITH FDA AS AN OUTSOURCING FACILITY

A. Who Should Register

A compounder can elect to register with FDA as an outsourcing facility. An outsourcing facility engages in the compounding of sterile drugs. Each outsourcing facility at a separate geographic location or address must register separately. The outsourcing facility is not required to be a licensed pharmacy (although it may be a licensed pharmacy), and it may or may not obtain prescriptions for individual patients.[6]

B. How to Register

1. Method for Outsourcing Facility Registration

Facilities that elect to register with FDA as outsourcing facilities should submit registration information using the existing structured product labeling (SPL) format. For detailed instructions on how to submit information using SPL, outsourcing facilities should refer to section IV of the guidance for industry *Providing Regulatory Submissions in Electronic Format — Drug Establishment Registration and Drug Listing*. FDA also offers tools and information for creating and submitting SPL files. Additional information can be found at www.fda.gov/edrls.

After initial registration, facilities must register annually, between October 1 and December 31 of each year, to continue to be registered outsourcing facilities. FDA has created an SPL category of business operation for outsourcing facilities. All outsourcing facilities should submit establishment registration information using the business operation "Human Drug Compounding Outsourcing Facility." If a facility chooses to register as an outsourcing facility, as required by section 503B(b)(1)(A) of the FD&C Act, it must submit the following information:

- Name of the facility
- Place of business
- Unique facility identifier
- Point of contact email address and phone number[7]
- An indication of whether the facility intends to compound products on FDA's drug shortage list
- An indication of whether the facility compounds from bulk drug substances, and if so, whether it compounds sterile or nonsterile drugs from bulk drug substances[8]

2. Method for Outsourcing Facility De-Registration

Facilities that have registered with FDA as outsourcing facilities can withdraw registration by submitting information to de-register using the SPL format. For detailed instructions on how to

[6] Section 503B(d)(4) of the FD&C Act
[7] Section 503B(b)(1)(A) only requires registrants to include a point of contact email address. However, we recommend that registrants also supply a point of contact phone number.
[8] See footnote 4 above.

de-register, see section IV of the guidance for industry *Providing Regulatory Submissions in Electronic Format — Drug Establishment Registration and Drug Listing*.

3. Posting of Registration Information

Section 503B(b)(1)(B)(ii) of the FD&C Act requires FDA to publish on the Internet a list of registered outsourcing facilities that includes the name of each registered outsourcing facility, the state in which it is located, whether the facility compounds from bulk drug substances, and whether such compounding from bulk drug substances is for sterile or nonsterile drugs.[9] FDA will publish the required information including the date the facility registered as an outsourcing facility, as well as certain publicly disclosable information related to past FDA inspections and compliance actions. FDA intends to update the list of registered outsourcing facilities weekly.

C. Electronic Registration Waivers

Section 503B(b)(3) of the FD&C Act requires facilities to register by electronic means unless FDA grants a request for a waiver of this requirement because use of electronic means is not reasonable for the person requesting the waiver. FDA does not anticipate many instances in which electronic submission of registration information will not be reasonable for the person requesting the waiver because the information requested is minimal and the electronic system for submitting the information is an internet-based system accessible to all firms seeking to register. However, if you are granted a waiver, you will be instructed on how to submit the required registration information.

To apply for a waiver from the requirement to electronically submit drug establishment registration information, you should provide to the following address a written request with a complete explanation of why the use of electronic means is not reasonable for you:

Drug Registration and Listing System Team
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

or

Email: edrls@fda.hhs.gov

D. Registration Fees

Under the DQSA, a facility is not considered registered until the facility's registration fees ("establishment fees") have been paid (see section 744K(g)(3)(A) of the FD&C Act). Beginning

[9] The list is available at http://www.fda.gov/drugs/guidancecomplianceregulatoryinformation/pharmacycompounding/ucm378645.htm. Additional information concerning outsourcing facility registration is available at http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm389118.htm.

in fiscal year (FY) 2015 (October 1, 2014 to September 30, 2015), facilities that elect to register with FDA as outsourcing facilities must pay an annual establishment fee (744K(a)(1)(A)). For detailed information on annual establishment fees for outsourcing facilities, refer to the guidance for industry *Fees for Human Drug Compounding Outsourcing Facilities Under Sections 503B and 744K of the FD&C Act.*