

## Revisions of New Drug Registration Procedures by SFDA

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### Abstract

On 28 February 2005, the new “Drug Registration Procedure” was approved by the directors of China’s State Food and Drug Administration (SFDA). It came into effect on 1 May 2005, replacing the previous temporary procedure, which had been in force since December 2002. The revised regulation comprises 16 chapters with 212 articles, compared with 18 chapters and 208 articles of previous Procedure. In total, 21 parts of the regulation have been revised. This article summarised a few key revisions included in the new Procedure.

### 1. Application for new indications treated as “New Drug”

Under the previous Procedure, application for a new indication for an approved drug was regarded as a “complementary application”. However, according to the definition by the <<Drug Administration Law>>, while there is no change to the substance, adding a new indication does affect a drug’s status. Therefore application for additional indication should be treated as New Drug submissions. Accordingly, the approval of additional indications will be treated as new drug approval. The new provision on that new states: “A new drug application refers to the application for registration of a drug that has not been marketed in the PRC. A drug that has been marketed in the PRC but is subject to a change in dosage form, administration route or added indication shall be administrated as a new drug.” However, due to different system used to assess traditional Chinese medicines (TCM) as opposed to chemical drugs or biologicals, the addition of an indication for a TCM will still be regarded as a complementary, rather than new, application.

### 2. Intellectual property protection strengthened

The previous Procedure already carried a provision on IP protection. It stated that “an applicant for clinical study or production (importation) of a new drug shall submit documents showing patent status and ownership for the drug or its formulation, process, etc. and a letter of guarantee stating that the new drug does not infringe the patent rights of others. If the intellectual property dispute occurs after the drug registration approval, the two parties shall resolve through negotiation or legal proceedings such as filing a lawsuit.” Although Chinese regulatory authority has taken great effort to reinforce the Provision, many complaints still submitted by multi-national pharmaceutical companies in the recent years. As part of effort to further strengthen intellectual property rights protection, the new Procedure conducted wide-ranging revision of the laws related to pharmaceuticals. However, more severe protection has been added within the new procedure: “If the intellectual property dispute occurs after a drug is approved, the two parties shall

resolve that dispute via negotiation, communication with the Patent Office or legal proceedings such as filing a lawsuit. The patent owner can apply to the SFDA to cancel another approval number provided that there is a valid judgement from patent office or court. And the SFDA should cancel its approval number if the drug is proven to have infringed the patent". As a result, the revised Procedure carries a much more severe provision, such that the patent owner can apply to the SFDA to cancel another approval number provided that there is a valid judgement from patent office or court. And the SFDA should cancel its approval number if the drug is proven to have infringed the patent.

## 2. Accepting drug registration application by PFDA

The significant difference between the previous procedure and the current procedure is that PFDA's are now authorized to accept new drug registration applications. This will streamline the SFDA approval process and shorten the approval time for the applicant. The procedure for accepting applications has been evolved from the three types under the old procedure to two types in the revised Procedure.

Previously, a new drug application was only pre-examined by the PFDA and then had to be accepted by SFDA. PFDA was not authorized to accept submissions. Now, applications relating to drug complying with domestic standards are accepted by the PFDA; and imported drug applications are still accepted by the SFDA. Under the new Procedure, Provincial offices will be responsible both for initial reviewing and accepting new drug applications. A PFDA will first examine if the application is complete and complies with correct formats. It will then carry out an on-site inspection to check the accuracy of the information provided. Examination of drug registration standard can be launched at the same time. Once satisfied with the initial investigation, PFDA will submit its conclusions and all application dossier to SFDA, allowing SFDA to organize a final technical examination and make decision to whether approve or reject the application. Shifting responsibility for accepting the drug registration applications helps to simplify the procedure and increase efficiency. Under the new procedure, feedback from the PFDA should be received within 5 days of submission, which was very much welcomed by the pharmaceutical industry.

## 3. Procedure for OTC drug approval specified

The old Procedure specified a number of situations where an application for an OTC form could be submitted. However, there was no specific procedure on how to handle such applications, nor any definition as to what information would be required in

each instance. The new regulation corrected that.

As in the previous Procedure, it is possible to apply for OTC status at the same time for new drug application in defined circumstances. For example, if national standards for the production and/or importation of OTC drugs of the same class already exists and the application is for a change in dosage form without any accompanying change in indications, dosage amount, or administration route; or if the application is for a new combination preparation developed from active ingredients already designated by the SFDA as OTC. Regarding specific procedure for handling such applications or defined requirements of what the application should include, the revised regulations detail the process more thoroughly.

## 4. More requirements for repackaging imported drugs

The revised Procedure stated several requirements for applications to repackage imported drugs. Among them, only the first two were included the previous regulation.

- an Import Drug Certificate or Pharmaceutical Product Certificate should be obtained for the imported drugs before submission of the application;
- the drug should not yet be manufactured in China or, if manufactured, not able to meet the clinical demand;
- the drug of one pharmaceutical company shall only be repackaged for a period not exceeding the validity of the Import Drug Certificate or Pharmaceutical Product Certificate.
- with the exception of tablet and capsule presentations, all products should be imported in their finished form and definitive inner packaging.
- the domestic pharmaceutical production enterprise should hold a Drug Manufacturing Licence. If the tablet or capsule is to be repackaged in China, the drug must be within the production scope described in the Drug Manufacturing Licence and Good Manufacturing Practice (GMP) certificate.
- any application to repackage an imported drug should be made one year prior to expiration of the Import Drug Certificate or Pharmaceutical Product Certificate.

## 5. Supplemental application approved by PFDA

The previous Procedure stipulated that for a supplemental application relating to a change of enterprise name, the amendment of drug packaging and label as required by regulation, or the amendment of the insert sheet required by the SFDA, the application should be accepted and approved by the PFDA, and the SFDA and applicant notified. When there is no objection within 20 days after the SFDA receives the

documents, the PFDA can inform the applicant to conduct the complementary application. With the latest revision, the process has been further simplified. The application will be accepted and approved by the PFDA. If the PFDA considers all the requirements to be met, approval of the Supplemental Drug Application will be issued and filed with the SFDA for record purposes only. If the requirements are not met, a Notification of Approval Opinion will be issued with explanation and recommendations of further action.

## **6. Other Changes**

There are also some other revisions in the new Procedure. For example, Accelerated Approval process can now be applied to those drugs which address a defined public health need, as defined under the Chinese Emerging Public Health Regulation. Also the timeline for approval is much more specified than before. Under the new regulation, the approval authority must inform the pharmaceutical company whether its registration dossier is to be accepted within 5 working days of submission. The deadline for delivery of the approval letter has also been shortened to 10 days. In addition, as contract manufacturing comes under the jurisdiction of the Chinese Pharmaceutical Manufacturing Administration Procedure, related articles in the previous procedure have been deleted from the new drug registration procedure to avoid the repetition and potential confusion.

## **References**

1. China Drug Registration Procedure (temporary), issued on Oct 30, 2002
2. China Drug Administration Law, issued Feb 28, 2001
3. China Drug Registration Procedure, revised on Feb 28, 2005