

Employee Benefit ■ Plan Review

Continued Efforts to Onshore Pharmaceutical Manufacturing: Food and Drug Administration Announces New FDA PreCheck Program

BY HOWARD SKLAMBERG, EVA TEMKIN, PHILLIP V. DEFEELE AND NATANIEL TSAI

The U.S. Food and Drug Administration (FDA or the Agency) has announced FDA PreCheck, a new program intended to strengthen the domestic pharmaceutical supply chain by increasing regulatory predictability and facilitating the construction of pharmaceutical manufacturing sites in the United States. Increasing the domestic pharmaceutical manufacturing base has been a priority of the Trump administration, and the new PreCheck program aims to further this policy objective. Taken together with the looming threat of tariffs on foreign-manufactured pharmaceutical products,¹ the PreCheck program is the administration's carrot to help entice pharmaceutical manufacturers to increase their manufacturing capabilities in the United States.

BACKGROUND

On May 5, 2025, President Trump signed Executive Order 14293, "Regulatory Relief to Promote Domestic Production of Critical Medicines" (the executive order), intended to streamline the regulation of domestic pharmaceutical manufacturing to facilitate "the restoration of a robust domestic pharmaceutical

manufacturing base."² Among other things, the executive order directed FDA to review current FDA authorities to eliminate duplicative or unnecessary requirements, maximize the timeliness and predictability of the Agency's review, and accelerate the development of domestic pharmaceutical manufacturing.³ FDA developed FDA PreCheck in response to the executive order.⁴ In its press release announcing PreCheck, FDA explained that over 50% of pharmaceuticals distributed in the United States are manufactured abroad, and only 11% of active pharmaceutical ingredient manufacturers are domestic. Even prior to the announcement of the FDA PreCheck program, industry had been evaluating increasing domestic pharmaceutical production.

PRECHECK PROGRAM

The PreCheck program will establish a two-phase approach to facilitate and accelerate the establishment of new domestic drug manufacturing facilities, with earlier regulatory input, enhanced engagement, and efficient quality assessments.

The first phase of the program, referred to as the "Facility Readiness Phase," will provide

manufacturers with increased FDA communication at critical development stages, including facility design, construction, and pre-production. FDA will also provide insight as to whether the manufacturer's planned facility and manufacturing operations, as designed, are likely to comply with current Good Manufacturing Practice (cGMP) requirements.

Additionally, companies may provide comprehensive facility-specific information through a Type V Drug Master File (DMF), such as site operations layout and description, Pharmaceutical Quality System elements, and Quality Management Maturity practices. This is intended to help FDA provide timely feedback on the consistency and effectiveness of quality procedures to reduce the risk of cGMP deficiencies that could compromise product quality, patient safety, and application approval. The DMF may be incorporated by reference into a drug application as appropriate. It may also be updated throughout the facility lifecycle and leveraged to streamline facility assessment during application review. We note that a Type II DMF, rather than a Type V DMF, provides information on drug substance, drug substance intermediate, type of material used in their preparation, or drug product. As such, it will be important to consider how much of a Type V DMF can be leveraged for a biological product to the extent that it details a facility used in the production of drug substance, drug substance intermediate, or drug product in light of FDA's preclusion on the use of DMFs for drug substance, drug substance intermediate, and drug product information in Biologics License Applications (BLAs).⁵ Due to the complexities of biological product manufacturing processes, manufacturers of such products could potentially greatly benefit from this phase of the PreCheck program. However, FDA, in promulgating the DMF rule for biologics, expressly declined to codify that information

in Type V DMFs could necessarily be incorporated by reference in BLAs. Therefore, this will be an important issue for those manufacturers to navigate.

The second phase, referred to as the "Application Submission Phase," focuses on streamlining the development of the Chemistry, Manufacturing, and Controls (CMC) section of a new drug application or BLA. In this phase, FDA will provide applicants and their manufacturers an opportunity to provide FDA with advanced awareness of facility and manufacturing strategies for specific drugs, while enabling earlier assessment and inspection activities within the review cycle. The Agency will also provide CMC feedback on anticipated data or logistical needs to support review and inspection processes in a timely manner and accelerate quality element assessments for applications from new U.S. facilities through early facility engagement and frontloaded assessment activities.

An important limitation of the PreCheck program is that approval of many pharmaceutical applications depends on the success of a pre-approval or pre-license inspection, which is more complex than an early evaluation of a facility's design. Inspections examine not just the design of facilities, but how they operate in real-time while manufacturing the drug substance or drug product that is the subject of the application. FDA may provide positive input on the design of a facility, but may later determine that it cannot approve an application. For example, FDA may conclude that, although equipment appears to be designed correctly, it was not qualified appropriately to work in manufacturing a specific drug, it was modified without adequate change controls, or it was not sufficiently integrated into a well-functioning quality system.

WHAT'S NEXT?

The FDA has solicited feedback on its PreCheck draft framework. In

particular, it sought input on the following four questions:

1. "What do you consider the most significant regulatory hurdle in establishing a new domestic pharmaceutical manufacturing facility?"
2. "Which specific element(s) of the FDA PreCheck proposal are most likely to help the establishment of new [U.S.] manufacturing facilities?"
3. "Are there additional elements or implementation considerations that should be considered in the FDA PreCheck proposal?"
4. "Would your company be willing to provide information about manufacturing facilities relevant to FDA oversight (e.g., facility design, quality systems, [cGMP] compliance, processes and controls, qualification or validation data) in advance of, or separate from, an application submission? What concerns might you have about sharing this information?" 🌐

NOTES

1. Nathaniel Weixel, "Trump threatens pharmaceutical tariffs of up to 250 percent," *The Hill* (Aug. 5, 2025), available at <https://thehill.com/home-news/administration/5436846-drug-import-tariffs-trump/>.
2. Exec. Order 14293, 90 Fed. Reg. 19615 (May 8, 2025).
3. Id. Additionally, the executive order sought to streamline review of domestic pharmaceutical manufacturing by the U.S. Environmental Protection Agency, as well as centralize coordination of environmental permits and streamline review of domestic pharmaceutical manufacturing by the United States Army Corps of Engineers.
4. U.S. Food and Drug Admin., FDA Announces New FDA PreCheck to Boost U.S. Drug Manufacturing (Aug. 7, 2025), available at <https://www.fda.gov/news-events/press-announcements/fda-announces-new-fda-pre-check-program-boost-us-drug-manufacturing>. (Commissioner Martin A. Makary stated "[o]ur gradual overreliance on foreign drug manufacturing has created national security risks. . . . The FDA PreCheck initiative is one of many steps FDA is taking that can help reverse America's reliance on foreign drug manufacturing and ensure that Americans have a resilient, strong, and domestic drug supply.")

5. 21 C.F.R. § 601.2(g) (“a biologics license application under section 351 of the Public Health Service Act may not incorporate by reference drug substance, drug substance intermediate, or drug product information contained in a master file”).

The authors, attorneys with Arnold & Porter Kaye Scholer LLP, may be contacted at howard.sklamberg@arnoldporter.com, [eva.temkin@](mailto:eva.temkin@arnoldporter.com)

arnoldporter.com, phillip.defedele@arnoldporter.com and nataniel.tsai@arnoldporter.com, respectively.

Copyright © 2025 CCH Incorporated. All Rights Reserved.
Reprinted from *Employee Benefit Plan Review*, November-December 2025, Volume 79,
Number 9, pages 21–22 with permission from Wolters Kluwer, New York, NY,
1-800-638-8437, www.WoltersKluwerLR.com

