

<p>(ii) The 45-day period under section 505(j)(5)(B)(iii) of the act had not expired; and</p> <p>(iii) No person receiving notice under paragraphs (a)(1) and (a)(2) of this section had brought an action against the applicant for infringement of the</p>	<p>patent that was the subject of the withdrawn or changed certification under § 314.94(a)(12)(i)(A)(4).</p> <p>* * * * *</p>	<p>Dated: May 23, 2003.</p> <p>Mark B. McClellan, <i>Commissioner of Food and Drugs.</i></p> <p>Dated: June 9, 2003.</p> <p>Tommy G. Thompson, <i>Secretary of Health and Human Services.</i></p> <p>[This appendix will not appear in the Code of Federal Regulations.]</p> <p>BILLING CODE 4160-01-S</p>
--	---	---