

§ 314.201

(4) If review of the data, information, and analyses submitted show that the grounds cited in the notice are not valid, for example, that substantial evidence of effectiveness exists, the Commissioner will enter summary judgment for the person requesting the hearing, and rescind the notice of opportunity for hearing.

(5) If the Commissioner grants a hearing, it will begin within 90 days after the expiration of the time for requesting the hearing unless the parties otherwise agree in the case of denial of approval, and as soon as practicable in the case of withdrawal of approval.

(6) The Commissioner will grant a hearing if there exists a genuine and substantial issue of fact or if the Commissioner concludes that a hearing would otherwise be in the public interest.

(7) If the manufacturer or distributor of an identical, related, or similar drug product requests and is granted a hearing, the hearing may consider whether the product is in fact identical, related, or similar to the drug product named in the notice of opportunity for a hearing.

(8) A request for a hearing, and any subsequent grant or denial of a hearing, applies only to the drug products named in such documents.

(h) FDA will issue a notice withdrawing approval and declaring all products unlawful for drug products subject to a notice of opportunity for a hearing, including any identical, related, or similar drug product under § 310.6, for which an opportunity for a hearing is waived or for which a hearing is denied. The Commissioner may defer or stay the action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

[50 FR 7493, Feb. 22, 1985; 50 FR 14212, Apr. 11, 1985, as amended at 50 FR 21238, May 23, 1985; 55 FR 11580, Mar. 29, 1990; 57 FR 17996, Apr. 28, 1992; 59 FR 14364, Mar. 28, 1994; 63 FR 5252, Feb. 2, 1998; 67 FR 9586, Mar. 4, 2002; 68 FR 24879, May 9, 2003; 69 FR 48775, Aug. 11, 2004; 74 FR 13113, Mar. 26, 2009]

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§ 314.201 Procedure for hearings.

Parts 10 through 16 apply to hearings relating to new drugs under section 505 (d) and (e) of the act.

§ 314.235 Judicial review.

(a) The Commissioner of Food and Drugs will certify the transcript and record. In any case in which the Commissioner enters an order without a hearing under § 314.200(g), the record certified by the Commissioner is required to include the requests for hearing together with the data and information submitted and the Commissioner's findings and conclusion.

(b) A manufacturer or distributor of an identical, related, or similar drug product under § 310.6 may seek judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, in a United States court of appeals under section 505(h) of the act.

Subpart F [Reserved]

Subpart G—Miscellaneous Provisions

SOURCE: 50 FR 7493, Feb. 22, 1985, unless otherwise noted. Redesignated at 57 FR 17983, Apr. 28, 1992.

§ 314.410 Imports and exports of new drugs.

(a) *Imports.* (1) A new drug may be imported into the United States if: (i) It is the subject of an approved application under this part; or (ii) it complies with the regulations pertaining to investigational new drugs under part 312; and it complies with the general regulations pertaining to imports under subpart E of part 1.

(2) A drug substance intended for use in the manufacture, processing, or repackaging of a new drug may be imported into the United States if it complies with the labeling exemption in § 201.122 pertaining to shipments of drug substances in domestic commerce.

(b) *Exports.* (1) A new drug may be exported if it is the subject of an approved application under this part or it complies with the regulations pertaining to investigational new drugs under part 312.