

### § 314.103

urgent matters, such as to discuss an important new safety issue.

[57 FR 17988, Apr. 28, 1992; 57 FR 29353, July 1, 1992, as amended at 73 FR 39609, July 10, 2008]

#### § 314.103 Dispute resolution.

(a) *General.* FDA is committed to resolving differences between applicants and FDA reviewing divisions with respect to technical requirements for applications or abbreviated applications as quickly and amicably as possible through the cooperative exchange of information and views.

(b) *Administrative and procedural issues.* When administrative or procedural disputes arise, the applicant should first attempt to resolve the matter with the division responsible for reviewing the application or abbreviated application, beginning with the consumer safety officer assigned to the application or abbreviated application. If resolution is not achieved, the applicant may raise the matter with the person designated as ombudsman, whose function shall be to investigate what has happened and to facilitate a timely and equitable resolution. Appropriate issues to raise with the ombudsman include resolving difficulties in scheduling meetings, obtaining timely replies to inquiries, and obtaining timely completion of pending reviews. Further details on this procedure are contained in a staff manual guide that is publicly available under FDA's public information regulations in part 20.

(c) *Scientific and medical disputes.* (1) Because major scientific issues are ordinarily communicated to applicants in a complete response letter pursuant to § 314.110, the "end-of-review conference" described in § 314.102(d) will provide a timely forum for discussing and resolving, if possible, scientific and medical issues on which the applicant disagrees with the agency. In addition, the "ninety-day conference" described in § 314.102(c) will provide a timely forum for discussing and resolving, if possible, issues identified by that date.

(2) When scientific or medical disputes arise at other times during the review process, applicants should discuss the matter directly with the responsible reviewing officials. If necessary, applicants may request a meet-

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ing with the appropriate reviewing officials and management representatives in order to seek a resolution. Ordinarily, such meetings would be held first with the Division Director, then with the Office Director, and finally with the Center Director if the matter is still unresolved. Requests for such meetings shall be directed to the director of the division responsible for reviewing the application or abbreviated application. FDA will make every attempt to grant requests for meetings that involve important issues and that can be scheduled at mutually convenient times.

(3) In requesting a meeting designed to resolve a scientific or medical dispute, applicants may suggest that FDA seek the advice of outside experts, in which case FDA may, in its discretion, invite to the meeting one or more of its advisory committee members or other consultants, as designated by the agency. Applicants may also bring their own consultants. For major scientific and medical policy issues not resolved by informal meetings, FDA may refer the matter to one of its standing advisory committees for its consideration and recommendations.

[50 FR 7493, Feb. 22, 1985; 50 FR 14212, Apr. 11, 1985, as amended at 57 FR 17989, Apr. 28, 1992; 73 FR 39609, July 10, 2008]

#### § 314.104 Drugs with potential for abuse.

The Food and Drug Administration will inform the Drug Enforcement Administration under section 201(f) of the Controlled Substances Act (21 U.S.C. 801) when an application or abbreviated application is submitted for a drug that appears to have an abuse potential.

[57 FR 17989, Apr. 28, 1992]

#### § 314.105 Approval of an NDA and an ANDA.

(a) FDA will approve an NDA and send the applicant an approval letter if none of the reasons in § 314.125 for refusing to approve the NDA applies. FDA will issue a tentative approval letter if an NDA otherwise meets the requirements for approval under the Federal Food, Drug, and Cosmetic Act, but cannot be approved because there is a 7-year period of orphan exclusivity