

## § 314.540

the conclusion of the person's presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may, as a matter of discretion, permit questions to be submitted to the presiding officer for response by a person making a presentation.

(f) *Judicial review.* The Commissioner's decision constitutes final agency action from which the applicant may petition for judicial review. Before requesting an order from a court for a stay of action pending review, an applicant must first submit a petition for a stay of action under § 10.35 of this chapter.

[57 FR 58958, Dec. 11, 1992, as amended at 64 FR 402, Jan. 5, 1999]

## § 314.540 Postmarketing safety reporting.

Drug products approved under this program are subject to the postmarketing recordkeeping and safety reporting applicable to all approved drug products, as provided in §§ 314.80 and 314.81.

## § 314.550 Promotional materials.

For drug products being considered for approval under this subpart, unless otherwise informed by the agency, applicants must submit to the agency for consideration during the preapproval review period copies of all promotional materials, including promotional labeling as well as advertisements, intended for dissemination or publication within 120 days following marketing approval. After 120 days following marketing approval, unless otherwise informed by the agency, the applicant must submit promotional materials at least 30 days prior to the intended time of initial dissemination of the labeling or initial publication of the advertisement.

## § 314.560 Termination of requirements.

If FDA determines after approval that the requirements established in § 314.520, § 314.530, or § 314.550 are no longer necessary for the safe and effective use of a drug product, it will so notify the applicant. Ordinarily, for drug products approved under § 314.510, these requirements will no longer apply when FDA determines that the required postmarketing study verifies and de-

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scribes the drug product's clinical benefit and the drug product would be appropriate for approval under traditional procedures. For drug products approved under § 314.520, the restrictions would no longer apply when FDA determines that safe use of the drug product can be assured through appropriate labeling. FDA also retains the discretion to remove specific post-approval requirements upon review of a petition submitted by the sponsor in accordance with § 10.30.

## PART 315—DIAGNOSTIC RADIOPHARMACEUTICALS

Sec.

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AUTHORITY: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371, 374, 379e; sec. 122, Pub. L. 105-115, 111 Stat. 2322 (21 U.S.C. 355 note).

SOURCE: 64 FR 26667, May 17, 1999, unless otherwise noted.

### § 315.1 Scope.

The regulations in this part apply to radiopharmaceuticals intended for in vivo administration for diagnostic and monitoring use. They do not apply to radiopharmaceuticals intended for therapeutic purposes. In situations where a particular radiopharmaceutical is proposed for both diagnostic and therapeutic uses, the radiopharmaceutical must be evaluated taking into account each intended use.

### § 315.2 Definition.

For purposes of this part, *diagnostic radiopharmaceutical* means:

(a) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(b) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article as defined in paragraph (a) of this section.