§ 316.22 Permanent-resident agent for foreign sponsor.

Every foreign sponsor that seeks orphan-drug designation shall name a permanent resident of the United States as the sponsor’s agent upon whom service of all processes, notices, orders, decisions, requirements, and other communications may be made on behalf of the sponsor. Notifications of changes in such agents or changes of address of agents should preferably be provided in advance, but not later than 60 days after the effective date of such changes. The permanent-resident agent may be an individual, firm, or domestic corporation and may represent any number of sponsors. The name of the permanent-resident agent shall be provided to: Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

§ 316.23 Timing of requests for orphan-drug designation; designation of already approved drugs.

(a) A sponsor may request orphan-drug designation at any time in the drug development process prior to the submission of a marketing application for the drug product for the orphan indication.

(b) A sponsor may request orphan-drug designation of an already approved drug product for an unapproved use without regard to whether the prior marketing approval was for an orphan drug indication.

§ 316.24 Granting orphan-drug designation.

(a) FDA will grant the request for orphan-drug designation if none of the reasons described in § 316.25 for requiring or permitting refusal to grant such a request applies.

(b) When a request for orphan-drug designation is granted, FDA will notify the sponsor in writing and will publicize the orphan-drug designation in accordance with § 316.28.

§ 316.25 Refusal to grant orphan-drug designation.

(a) FDA will refuse to grant a request for orphan-drug designation if any of the following reasons apply:

(i) There is insufficient evidence to support the estimate that the drug is intended for treatment of a rare disease or condition because:

(ii) Where the drug is intended for prevention, diagnosis, or treatment of a disease or condition affecting 200,000 or more people in the United States annually, the sponsor has failed to demonstrate that there is no reasonable expectation that development and production costs will be recovered from the drug sales for the orphan indication in the United States.

(ii) Where the drug is intended for prevention, diagnosis, or treatment of a disease or condition affecting 200,000 or more people in the United States, the sponsor has failed to demonstrate that there is no reasonable expectation that development and production costs will be recovered from sales of the drug for the orphan indication in the United States. A sponsor’s failure to comply with § 316.21 shall constitute a failure...