

## § 312.80

to determine whether the investigator has submitted unreliable data that are essential to the continuation of an investigation or essential to the approval of a marketing application, or essential to the continued marketing of an FDA-regulated product.

(d) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, the Commissioner will notify the sponsor, who shall have an opportunity for a regulatory hearing under part 16 of this chapter. If a danger to the public health exists, however, the Commissioner shall terminate the IND immediately and notify the sponsor and the reviewing IRBs of the termination. In such case, the sponsor shall have an opportunity for a regulatory hearing before FDA under part 16 on the question of whether the IND should be reinstated. The determination that an investigation may not be considered in support of a research or marketing application or a notification or petition submission does not, however, relieve the sponsor of any obligation under any other applicable regulation to submit to FDA the results of the investigation.

(e) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the continued approval of the product for which the data were submitted cannot be justified, the Commissioner will proceed to withdraw approval of the product in accordance with the applicable provisions of the relevant statutes.

(f) An investigator who has been determined to be ineligible under paragraph (b) of this section may be reinstated as eligible when the Commissioner determines that the investigator has presented adequate assurances that the investigator will employ all test articles, and will conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA, solely in compliance with the applicable provisions of this chapter.

[77 FR 25359, Apr. 30, 2012]

## 21 CFR Ch. I (4–1–23 Edition)

### Subpart E—Drugs Intended to Treat Life-threatening and Severely-debilitating Illnesses

AUTHORITY: 21 U.S.C. 351, 352, 353, 355, 371; 42 U.S.C. 262.

SOURCE: 53 FR 41523, Oct. 21, 1988, unless otherwise noted.

#### § 312.80 Purpose.

The purpose of this section is to establish procedures designed to expedite the development, evaluation, and marketing of new therapies intended to treat persons with life-threatening and severely-debilitating illnesses, especially where no satisfactory alternative therapy exists. As stated § 314.105(c) of this chapter, while the statutory standards of safety and effectiveness apply to all drugs, the many kinds of drugs that are subject to them, and the wide range of uses for those drugs, demand flexibility in applying the standards. The Food and Drug Administration (FDA) has determined that it is appropriate to exercise the broadest flexibility in applying the statutory standards, while preserving appropriate guarantees for safety and effectiveness. These procedures reflect the recognition that physicians and patients are generally willing to accept greater risks or side effects from products that treat life-threatening and severely-debilitating illnesses, than they would accept from products that treat less serious illnesses. These procedures also reflect the recognition that the benefits of the drug need to be evaluated in light of the severity of the disease being treated. The procedure outlined in this section should be interpreted consistent with that purpose.

#### § 312.81 Scope.

This section applies to new drug and biological products that are being studied for their safety and effectiveness in treating life-threatening or severely-debilitating diseases.

(a) For purposes of this section, the term “life-threatening” means:

(1) Diseases or conditions where the likelihood of death is high unless the course of the disease is interrupted; and