
Guidance for Industry Expedited Programs for Serious Conditions – Drugs and Biologics

**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Drug Evaluation and Research (CDER)
Center for Biologics Evaluation and Research (CBER)**

**May 2014
Procedural**

OMB Control No. 0910-0765
Expiration Date: 04/30/2021 (Note: Expiration date updated 06/21/2020)
See additional PRA statement in section X of this guidance.

<p>Mylan v. Regeneron IPR2021-00881 U.S. Pat. 9,254,338 Exhibit 2108</p>
--

Guidance for Industry Expedited Programs for Serious Conditions – Drugs and Biologics

*Additional copies are available from:
Office of Communications
Division of Drug Information, WO51, Room 2201
Center for Drug Evaluation and Research
Food and Drug Administration
10903 New Hampshire Ave., Silver Spring, MD 20993
Phone: 301-796-3400; Fax: 301-847-8714
druginfo@fda.hhs.gov*

<http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>

and/or

*Office of Communication, Outreach and Development
Center for Biologics Evaluation and Research
Food and Drug Administration
10903 New Hampshire Ave., WO71, Room 3128
Silver Spring, MD 20993
Phone: 800-835-4709 or 240-402-7800
ocod@fda.hhs.gov*

<http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>

**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Drug Evaluation and Research (CDER)
Center for Biologics Evaluation and Research (CBER)**

**May 2014
Procedural**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	BACKGROUND	1
III.	CONCEPTS FOR EXPEDITED PROGRAMS.....	2
	A. Serious Condition.....	2
	B. Available Therapy.....	3
	C. Unmet Medical Need.....	4
IV.	OVERVIEW OF EXPEDITED PROGRAMS.....	7
V.	FAST TRACK DESIGNATION	9
	A. Qualifying Criteria for Fast Track Designation.....	9
	B. Features of Fast Track Designation	9
VI.	BREAKTHROUGH THERAPY DESIGNATION	10
	A. Qualifying Criteria for Breakthrough Therapy Designation.....	10
	B. Features of Breakthrough Therapy Designation	13
VII.	ACCELERATED APPROVAL.....	15
	A. Qualifying Criteria for Accelerated Approval.....	16
	B. Accelerated Approval Endpoints.....	17
	C. Evidentiary Criteria for Accelerated Approval.....	19
	D. Conditions of Accelerated Approval	22
VIII.	PRIORITY REVIEW DESIGNATION	24
	A. Qualifying Criteria for Priority Review Designation	24
	B. Features of Priority Review Designation	25
IX.	GENERAL CONSIDERATIONS	25
	A. Manufacturing and Product Quality Considerations.....	25
	B. Nonclinical Considerations	26
	C. Clinical Inspection Considerations.....	27
	D. Companion Diagnostics	27
X.	PAPERWORK REDUCTION ACT OF 1995.....	27
	APPENDIX 1: PROCESSES FOR FAST TRACK, BREAKTHROUGH THERAPY, AND	
	PRIORITY REVIEW DESIGNATIONS	28
	A. Process for Fast Track Designation.....	28
	B. Process for Breakthrough Therapy Designation.....	30

Contains Nonbinding Recommendations

C. Process for Priority Review Designation 33

APPENDIX 2: PROCESSES FOR ROLLING REVIEW 35

A. Agreement on Proposal 35

B. Portions of an Application Eligible for Early Submission 35

C. Submission of User Fees 36

D. Commencement of Review 36

E. Calculation of Review Time 36

Guidance for Industry¹

Expedited Programs for Serious Conditions – Drugs and Biologics

This guidance represents the Food and Drug Administration's (FDA's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the appropriate number listed on the title page of this guidance.

I. INTRODUCTION

The following four FDA programs are intended to facilitate and expedite development and review of new drugs² to address unmet medical need in the treatment of a serious or life-threatening³ condition: fast track designation, breakthrough therapy designation, accelerated approval, and priority review designation (see [section IV](#) for an overview of the programs). The purpose of this guidance for industry is to provide a single resource for information on FDA's policies and procedures for these four programs as well as threshold criteria generally applicable to concluding that a drug is a candidate for these expedited development and review programs.

FDA's guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidances means that something is suggested or recommended, but not required.

II. BACKGROUND

The programs described in this guidance are intended to help ensure that therapies for serious conditions are approved and available to patients as soon as it can be concluded that the therapies' benefits justify their risks. The Agency first formally articulated its thinking on expediting the availability of promising new therapies in regulations codified at part 312, subpart E (21 CFR part 312).⁴ The subpart E regulations are intended to speed the availability of new therapies to patients with serious conditions, especially when there are no satisfactory alternative therapies, while preserving appropriate standards for safety and effectiveness. The regulations

¹ This guidance has been prepared by the Center for Drug Evaluation and Research (CDER) in cooperation with the Center for Biologics Evaluation and Research (CBER) at the Food and Drug Administration.

² For the purposes of this guidance, all references to *drugs* or *drug products* include both human drugs and biological drug products regulated by CDER and CBER unless otherwise specified.

³ 1. Whether a Condition Is Serious explains that all references to serious conditions include life-threatening conditions.

⁴ Food and Drug Administration, Interim Rule, Investigational New Drug, Antibiotic, and Biological Drug Product Regulations; Procedures for Drugs Intended to Treat Life-Threatening and Severely Debilitating Illnesses (53 FR 41516, October 21, 1988).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.