



Food and Drug Administration  
10903 New Hampshire Avenue  
Document Control Center - WO66-G609  
Silver Spring, MD 20993-0002

Mr. Mark Loar  
Director, Regulatory Affairs  
Second Sight Medical Products, Inc.  
12744 San Fernando Road  
Building 3  
Sylmar, CA 91342

**FEB 13 2013**

Re: H110002  
09-0216  
Argus™ II Retinal Prosthesis System  
Filed: May 4, 2011  
Amended: June 01, 2011, June 28, 2011, October 26, 2011, February 13, 2012, April 09, 2012, April 20, 2012, June 27, 2012 (2), July 17, 2012, September 17, 2012, October 31, 2012, November 19, 2012, December 07, 2012, January 25, 2013, January 28, 2013 and February 6, 2013

Product Code: NBF

Dear Mr. Loar:

The Center for Devices and Radiological Health (CDRH) of the Food and Drug Administration (FDA) has completed its review of your humanitarian device exemption (HDE) application for the Argus™ II Retinal Prosthesis System. This device is indicated for use in patients with severe to profound retinitis pigmentosa who meet the following criteria:

- Adults, age 25 years or older.
- Bare light or no light perception in both eyes. (If the patient has no residual light perception, then evidence of intact inner layer retina function must be confirmed.)
- Previous history of useful form vision.
- Aphakic or pseudophakic. (If the patient is phakic prior to implant, the natural lens will be removed during the implant procedure.)
- Patients who are willing and able to receive the recommended post-implant clinical follow-up, device fitting, and visual rehabilitation.

The Argus II implant is intended to be implanted in a single eye, typically the worse-seeing eye. CDRH is pleased to inform you that your HDE is approved subject to the enclosed "Conditions of Approval." You may begin commercial distribution of the device upon receipt of this letter.

In addition to the post-approval requirements in the enclosure, you must conduct two post-approval studies as described below:

1. **Extended Follow-up of the Argus™ II Retinal Stimulation System Feasibility Study:** This study will be conducted as per protocol (CP-003-001-US, Revision O) dated 12/17/12. It is an extension of the existing premarket IDE study, to reach the goal of 10 years of follow-up post implant for every patient available. There are 29 patients entering into the study. These patients will first complete the 7 year post implant study agreed at premarket stage, then re-enroll to another three years to complete the 10 year post-implant study. The clinical exams and functional tests will be conducted between year 5 and 7, and at 10 year. During year 8 and 9 only clinical exams will be performed. The proportion of subjects experiencing adverse events will be calculated along with the 95% confidence intervals.
2. **New Enrollment Argus™ II Retinal Prosthesis System Post Approval Study:** This study will be conducted as per protocol (PM-02-01, Rev A) dated 1/11/2013. It is a five year, controlled (with device function mode ON and OFF), prospective, multi-center clinical study for the Argus II system. A total of 53 subjects will be enrolled, to monitor the safety (i.e. adverse event rates), visual function, functional vision and device reliability. Statistical analysis will be performed in the following areas:
  - **Safety and Adverse Events** (descriptive data with 95% confidence interval through each follow up time. Survival data methods (i.e., Kaplan-Meier) to report a cumulative serious adverse event rates (hazard rates) curve over time. Comparison of the safety data from the post- market study to those from the Argus II Feasibility Study (CP-003-001) will be performed,
  - **Stimulation Array Scan Thresholds** (Descriptive statistics will be provided),
  - **Grating Visual Acuity** (Descriptive statistics will be provided),
  - **Square Localization and Direction of Motion** (Comparative statistics will be provided per protocol agreement),
  - **Functional Low-vision Observer Rated Assessment (FLORA; Categorical analysis will be provided), and**
  - **Device Reliability** (Descriptive statistics will be provided).

Please be advised that the results from these studies should be included in the labeling as these data become available. Any updated labeling must be submitted to FDA in the form of an HDE Supplement.

FDA would like to remind you that you should submit separate PAS Progress Reports every six months during the first two years of the study and annually thereafter. The reports should clearly be identified as Post-Approval Study Report. Two copies for each study, identified as "HDE Post-Approval Study Report" and bearing the applicable HDE reference number, should be submitted to the address below. For more information on post-approval studies, see the FDA guidance document entitled, "Procedures for Handling Post-Approval Studies Imposed by PMA Order" ([www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070974.htm#2](http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070974.htm#2)).

The sale, distribution, and use of this device are limited to prescription use in accordance with 21 CFR 801.109 within the meaning of section 520(e) of the Federal Food, Drug, and Cosmetic Act (the act) under the authority of section 515(d)(1)(B)(ii) of the act. In addition, in order to ensure the safe use of the device, FDA has further restricted the device within the meaning of section 520(e) of the act under the authority of section 515(d)(1)(B)(ii) of the act insofar as the sale, distribution, and use must not violate sections 502(q) and (r) of the act.

CDRH does not evaluate information related to contract liability warranties. We remind you, however, that device labeling must be truthful and not misleading. CDRH will notify the public of its decision to approve your HDE by making available, among other information, a summary of the safety and probable benefit data upon which the approval is based. The information can be found on the FDA CDRH Internet Home Page located at <http://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/HDEApprovals/ucm161827.htm>. Written requests for this information can also be made to the Food and Drug Administration, Dockets Management Branch, (HFA-305), 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. The written request should include the HDE number or docket number.

FDA wishes to remind you that failure to comply with any post-approval requirement constitutes a ground for withdrawal of the HDE. Commercial distribution of a device that is not in compliance with these conditions is a violation of the act.

CDRH will notify the public of its decision to approve your HDE by making available a summary of the safety and probable benefit of the device upon which the approval was based. The information can be found on the FDA CDRH Internet Home Page located at <http://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/HDEApprovals/ucm161827.htm>. Written requests for this information can also be made to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. The written request should include the HDE number or docket number.

Within 30 days from the date that this information is placed on the Internet, any interested person may seek review of this decision by requesting an opportunity for administrative review, either through a hearing or review by an independent advisory committee, under section 515(g) of the act.

You are reminded that, as soon as possible and before commercial distribution of your device, you must submit an amendment to this HDE submission with copies of all approved labeling in final printed form. The labeling will not routinely be reviewed by FDA staff when HDE applicants include with their submission of the final printed labeling a cover letter stating that the final printed labeling is identical to the labeling approved in draft form. If the final printed labeling is not identical, any changes from the final draft labeling should be highlighted and explained in the amendment.

Any information to be submitted to FDA regarding this HDE should be submitted in triplicate, unless otherwise specified, to the address below and should reference the above HDE number to facilitate processing:

U.S. Food and Drug Administration  
Center for Devices and Radiological Health  
HDE Document Mail Center – WO66-G609  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

If you have any questions concerning this approval order, please contact Alexander Beylin, Ph.D. at (301) 796-6620.

Sincerely yours,

**Christy L. Foreman**

Christy Foreman  
Director  
Office of Device Evaluation  
Center for Devices and Radiological Health  
Food and Drug Administration

Enclosure

## CONDITIONS OF APPROVAL FOR AN HDE

### I. APPROVED LABELING

As soon as possible and before commercial distribution of the device, the holder of an HDE should submit three copies of the approved labeling in final printed form as an amendment (if submitted prior to HDE approval) or supplement (if submitted after HDE approval) to the HDE. The amendment/supplement should be submitted to the U.S. Food and Drug Administration, Center for Devices and Radiological Health, HDE Document Mail Center – WO66-G609, 10903 New Hampshire Avenue, Silver Spring, MD 20993-0002.

### II. ADVERTISEMENTS

Advertisements and other descriptive printed materials issued by the HDE holder or private label distributor with respect to this device should not recommend or imply that the device may be used for any use that is not included in the FDA approved labeling for the device. If the FDA approval order has restricted the sale, distribution and use of the device to prescription use in accordance with 21 CFR 801.109 and specified that this restriction is being imposed in accordance with the provisions of section 520(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(e)) under the authority of section 515(d)(1)(B)(ii) of the act (21 U.S.C. 360e(d)(1)(B)(ii)), all advertisements and other descriptive printed material issued by the holder or distributor with respect to the device shall include a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications.

### III. HDE SUPPLEMENTS

Before making any change affecting the safety or probable benefit of the device, the HDE holder should submit a supplement for review and approval by FDA unless a "Special HDE Supplement" is permitted as described under 21 CFR 814.39(d)(2) or an alternate submission is permitted as described under 21 CFR 814.39(e). All HDE supplements or alternate submissions must comply with the applicable requirements under 21 CFR 814.39 of the Premarket Approval (PMA) regulation and under 21 CFR 814.108 of the Humanitarian Device Exemption regulation. The review timeframe for HDE supplements is 75 days except for those submitted under 21 CFR 814.39(e).

Since all situations which require an HDE supplement cannot be briefly summarized, please consult the HDE regulation for further guidance. The guidance provided below is only for several key instances. In general, an HDE supplement must be submitted:

- 1) When unanticipated adverse effects, increases in the incidence of anticipated adverse effects, or device failures necessitate a labeling, manufacturing, or device modification; or
- 2) If the device is to be modified, and animal/laboratory or clinical testing is needed to determine if the modified device remains safe and continues to provide probable benefit.

HDE supplements submitted under 21 CFR 814.39(d)(2) "Special HDE Supplement - Changes Being Effected" are limited to the labeling, quality control, and manufacturing process changes as specified under this section of the regulation. This provision allows for the addition of, but not the

replacement of previously approved, quality control specifications and test methods. These changes may be implemented upon acknowledgment by FDA that the submission is being processed as a "Special HDE Supplement - Changes Being Effected." Please note that this acknowledgment is in addition to that issued by the Document Mail Center for all HDE supplements submitted. This procedure is not applicable to changes in device design, composition, specifications, circuitry, software, or energy source.

Alternate submissions permitted under 21 CFR 814.39(e) apply to changes that otherwise require approval of an HDE supplement before implementation and include the use of a *30-day HDE supplement or periodic postapproval report*. FDA must have previously indicated in an advisory opinion to the affected industry or in correspondence to the HDE holder that the alternate submission is permitted for the change. Before this can occur, FDA and the HDE holder must agree upon any needed testing, the testing protocol, the test results, the reporting format, the information to be reported, and the alternate submission to be used.

Please note that unlike the PMA process, a supplement may not be submitted for a new indication for use for a humanitarian use device (HUD). An HDE holder seeking a new indication for use for an HUD approved under the provisions of Subpart H of 21 CFR 814, must obtain a new designation of HUD status for the new indication for use and submit an original HDE application in accordance with §814.104. The application for the new indication for use may incorporate by reference any information or data previously submitted to the agency.

#### **IV. POSTAPPROVAL RECORD KEEPING REQUIREMENTS**

An HDE holder is required to maintain records of the names and addresses of the facilities to which the HUD has been shipped, correspondence with reviewing institutional review boards (IRBs), as well as any other information requested by a reviewing IRB or FDA.

#### **V. POSTAPPROVAL REPORTING REQUIREMENTS** Continued approval of the HDE is contingent upon the submission of postapproval reports required under 21 CFR 814.84 and 21 CFR 814.126.

##### **A. ANNUAL REPORT**

Annual reports should be submitted at intervals of 1 year from the date of approval of the original HDE. Reports for supplements approved under the original HDE should be included in the next and subsequent periodic reports for the original HDE unless otherwise specified in the approval order for the HDE supplement. Three copies identified as "Annual Report" and bearing the applicable HDE reference number are to be submitted to the U.S. Food and Drug Administration, Center for Devices and Radiological Health, HDE Document Mail Center – WO66-G609, 10903 New Hampshire Avenue, Silver Spring, MD 20993-0002. Reports should indicate the beginning and ending date of the period covered by the report and include the following information required by 21 CFR 814.126(b)(1):

1. An update of the information required under §814.102(a) in a separately bound volume;

2. An update of the information required under §814.104(b)(2), (b)(3), and (b)(5);
3. The number of devices that have been shipped or sold and, if the number shipped or sold exceeds 4,000, an explanation and estimate of the number of devices used per patient. If a single device is used on multiple patients, an estimate of the number of patients treated or diagnosed using the device together with an explanation of the basis for the estimate;
4. Information describing the applicant's clinical experience with the device. This shall include safety information that is known or reasonably should be known to the applicant, a summary of medical device reports made pursuant to 21 CFR 803, any data generated from postmarketing studies, and information (whether published or unpublished) that is known or reasonably expected to be known by the applicant that may affect an evaluation of the safety of the device or that may affect the statement of contraindications, warnings, precautions, and adverse reactions in the device labeling; and
5. A summary of any changes made to the device in accordance with supplements submitted under §814.108 and any changes required to be reported to FDA under §814.39(b).

**B. ADVERSE REACTION AND DEVICE DEFECT REPORTING**

As provided by 21 CFR 814.82(a)(9), FDA has determined that in order to provide continued reasonable assurance of the safety and probable benefit of the device, the holder shall submit three copies of a written report identified, as applicable, as an "Adverse Reaction Report" or "Device Defect Report" to the U.S. Food and Drug Administration, Center for Devices and Radiological Health, HDE Document Mail Center – WO66-G609, 10903 New Hampshire Avenue, Silver Spring, MD 20993-0002. Such reports should be submitted within 10 days after the HDE holder receives or has knowledge of information concerning:

- (1) A mixup of the device or its labeling with another article.
- (2) Any adverse reaction, side effect, injury, toxicity, or sensitivity reaction that is attributable to the device and
  - (a) has not been addressed by the device's labeling or
  - (b) has been addressed by the device's labeling, but is occurring with unexpected severity or frequency.
- (3) Any significant chemical, physical or other change or deterioration in the device or any failure of the device to meet the specifications established in the approved HDE that could not cause or contribute to death or serious injury but are not correctable by adjustments or other maintenance procedures described in the approved labeling. The report shall include a discussion of the HDE holder's assessment of the change, deterioration or failure and any proposed or implemented corrective action by the firm. When such events are correctable by adjustments or other maintenance procedures described in the approved labeling, all such events known to the holder shall be

included in the "Annual Report" described under "Postapproval Reports" above unless otherwise specified in the conditions of approval for this HDE. This postapproval report shall appropriately categorize these events and include the number of reported and otherwise known instances of occurrence for each category during the reporting period. Additional information regarding the events discussed above shall be submitted by the HDE holder when determined by FDA to be necessary to provide continued reasonable assurance of the safety and probable benefit of the device for its intended use.

**C. REPORTING UNDER THE MEDICAL DEVICE REPORTING REGULATION**

You are reminded that many FDA requirements govern the manufacture, distribution, and marketing of devices. For example, in accordance with the Medical Device Reporting (MDR) regulation, 21 CFR 803.50 and 21 CFR 803.52, you are required to report adverse events for this device. Manufacturers of medical devices, including in vitro diagnostic devices, are required to report to FDA no later than 30 calendar days after the day they receive or otherwise becomes aware of information, from any source, that reasonably suggests that one of their marketed devices:

1. May have caused or contributed to a death or serious injury; or
2. Has malfunctioned and such device or similar device marketed by the manufacturer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

Additional information on MDR, including how, when, and where to report, is available at [www.fda.gov/MedicalDevices/Safety/ReportaProblem/default.htm](http://www.fda.gov/MedicalDevices/Safety/ReportaProblem/default.htm).