THE UNIVERSITY OF ARIZONA Research & Partnerships

Abbreviated Investigational Device Exemption Requirements

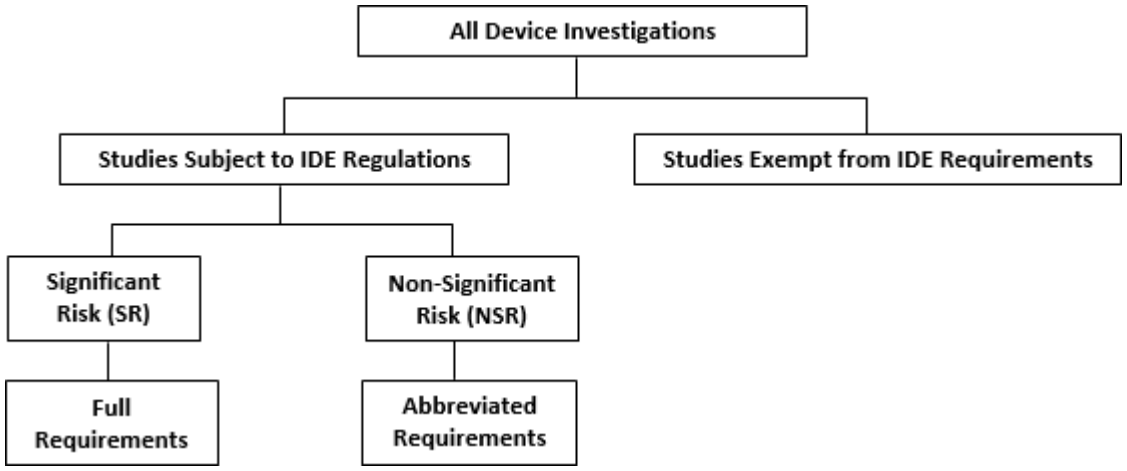
When does Human Research require an Abbreviated Investigational Device Exemption (IDE)?

Non-significant risk (NSR) devices are devices that do not pose a significant risk to human subjects. A NSR study requires only Institutional Review Board (IRB) approval prior to initiation of a clinical study. Submissions for non-significant device investigations are made directly to the IRB. Sponsors should present to the reviewing IRB an explanation why the device does not pose a significant risk.

If the IRB disagrees and determines that the device poses a significant risk, the sponsor must report this finding to the Food and Drug Administration (FDA) within **five (5) working days** [21 CFR 812.150(b)(9)].

The FDA considers an investigation of a non-significant risk device to have an abbreviated Investigational Device Exemption (IDE) when the IRB concurs with the non-significant risk determination and approves the study.

The sponsor must also comply with the abbreviated IDE requirements under 21 CFR 812.2b.



Definitions

- *Diagnostic Device* means those reagents, instruments, and systems intended for use in diagnosis of disease or other conditions, including determination of the state of health, in order to cure, mitigate, treat, or prevent disease or its sequelae.

- *Investigational Device* means the device is the purpose of the investigation and will be used to evaluate safety and efficacy in the diagnosis of disease or other conditions; or the cure, mitigation, treatment, or prevention of disease.

- *Investigational Device Exemption (IDE)* refers to regulations under 21 CFR 812. An approved IDE means that the IRB (for non-significant risk devices) and/or the FDA (for significant risk devices) has approved the sponsor's study application and all the requirements under 21 CFR 812 are met.

- *Non-Significant Risk (NSR) Device* means a device that does not pose a significant risk to the human subjects. Examples include daily-wear contact lenses, ultrasounds, and catheters.

- *Significant Risk (SR) Device* means a device that: (1) is intended as an implant and presents a potential for serious risk to the health, safety, or welfare of a subject; (2) is for use in supporting or sustaining human life and represents a potential for serious risk to the health, safety, or welfare of a subject; (3) is for a use of substantial importance in diagnosing, curing, mitigating, or treating disease or otherwise preventing impairment of human health and presents a potential for serious risk to the health, safety, or welfare of a subject; or (4) otherwise presents a potential for serious risk to a subject

- *Sponsor* means a person who takes responsibility for and initiates a clinical investigation.

Abbreviated IDE Overview

As the sponsor of the study, the Principal Investigator (PI) that is requesting an abbreviated IDE for use of a non-significant risk device must attest to the following:

1. **Banned Device:** The device is not a banned device under 21 CFR 895;
2. **Labeling:** The device will be labeled in accordance with 21 CFR 812.5;
3. **IRB Approval:** The PI will obtain IRB approval of the investigation after presenting the reviewing IRB with a brief explanation of why the device is not a significant risk device, and maintains such approval;
4. **Informed Consent:** The PI ensures that each investigator participating in an investigation of the device obtains, from each subject under the investigator's care, informed consent under 21 CFR 50, Protection of Human Subjects, and documents it, unless documentation is waived by an IRB under 56.109(c);
5. **Monitoring:** The PI complies with the requirements of 812.46 with respect to monitoring investigations;
6. **Records and Reports:** The PI maintains the records required under 812.140(b) (4) and (5) and makes the reports required under 812.150(b) (1) through (3) and (5) through (10);
7. **Investigator Records and Reports:** The PI ensures that participating investigators maintain the records required by 812.140(a)(3)(i) and makes the reports required under 812.150(a) (1), (2), (5), and (7); and
8. **Prohibitions:** The PI complies with the prohibitions in 812.7 against promotion and other practices.

Abbreviated Investigational Device Exemption Requirements

Each of these requirements is addressed in further detail in the remainder of this document.

1. The device is not a banned device under 21 CFR 895.

21 CFR 895 Subpart B lists devices that are banned. This list should be consulted to verify that the investigational device is not a banned device.

2. The device will be labeled in accordance with 21 CFR 812.5.

(a) *Contents*. An investigational device or its immediate package shall bear a label with the following information:

i. the name and place of business of the manufacturer, packer, or distributor (in accordance with 801.1),
ii. the quantity of contents, if appropriate, and
iii. the following statement: "CAUTION--Investigational device. Limited by Federal (or United States) law to investigational use."

(b) The label or other labeling shall describe all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions.

(c) *Prohibitions*. The labeling of an investigational device shall not bear any statement that is false or misleading in any particular and shall not represent that the device is safe or effective for the purposes for which it is being investigated.

(d) The sponsor should provide detailed information on device labeling in the investigational protocol. This information may vary depending on the device and the nature of the study. Product labeling should be sufficient to ensure stability of the test article for the duration of the study (i.e., storage requirements, calibration practices), bear sufficient directions for proper administration, and detail procedures to follow in the even of a subject injury.

3. The PI will obtain IRB approval with supporting evidence demonstrating that the device is non-significant risk by providing protocol-specific rational for why the device does NOT meet any of the Significant Risk criteria as outlined in the *Appendix for Devices* form:

(a) Is intended as an implant and presents a potential for serious risk to the health, safety, or welfare of a subject;
(b) Is for use in supporting or sustaining human life and represents a potential for serious risk to the health, safety, or welfare of a subject;

(c) Is for use of substantial importance in diagnosing, curing, mitigating, or treating disease or otherwise preventing impairment of human health and presents a potential for serious risk to the health, safety, or welfare of a subject; or
(d) Otherwise presents a potential for serious risk to a subject.

4. The PI must obtain and document informed consent from each subject according to 21 CFR 50.

Section 50.20 General Requirements for Informed Consent states:

(a) Except as provided in 50.23 and 50.24, no investigator may involve a human being as a subject in research covered by these regulations unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution, or its agents from liability for negligence.

5. The PI complies with the requirements of 21 CFR 812.46 with respect to monitoring investigations.

(a) *Securing compliance*. A sponsor who discovers that an investigator is not complying with the signed agreement, the investigational plan, the requirements of this part or other applicable FDA regulations, or any conditions of approval imposed by the reviewing IRB or FDA shall promptly either secure compliance, or discontinue shipments of the device to the investigator and terminate the investigator's participation in the investigation. A sponsor shall also require such an investigator to dispose of or return the device, unless this action would jeopardize the rights, safety, or welfare of a subject.

(b) *Unanticipated adverse device effects*.

(i) A sponsor shall immediately conduct an evaluation of any unanticipated adverse device effect.

(ii) A sponsor who determines that an unanticipated adverse device effect presents an unreasonable risk to subjects shall terminate all investigations or parts of investigations presenting that risk as soon as possible. Termination shall occur not later than 5 working days after the sponsor makes this determination and not later than 15 working days after the sponsor first received notice of the effect.

(c) *Resumption of terminated studies*. If the device is a significant risk device, a sponsor may not resume a terminated investigation without IRB and FDA approval. If the device is not a significant risk device, a sponsor may not resume a terminated investigation without IRB approval and, if the investigation was terminated under paragraph (b)(2) of this section, FDA approval.

6. The PI maintains the records required under 812.140(b) (4) and (5) and makes the reports required under 812.150(b) (1) through (3) and (5) through (10);

Records: 812.140(b) (4) and (5)

Sponsor records. A sponsor shall maintain the following accurate, complete, and current records relating to an investigation:

(a) All correspondence regarding the device should be consolidated in one location and available to the for FDA inspection and copying:

(i) The name and intended use of the device and the objectives of the investigation;

(ii) A brief explanation of why the device is not a significant risk device:

(iii) The name and address of each investigator:

(iv) The name and address of each IRB that has reviewed the investigation:

(v) A statement of the extent to which the good manufacturing practice regulation in part 820 will be followed in manufacturing the device; and

(vi) Any other information required by FDA.

(b) Records concerning adverse device effects (whether anticipated or unanticipated) and complaints.

Reports: 812.150(b) (1) through (3) and (5) through (10)

Sponsor reports. A sponsor shall prepare and submit the following complete, accurate, and timely reports:

(a) *Unanticipated adverse device effects*. A sponsor who conducts an evaluation of an unanticipated adverse device effect under 812.46(b) shall report the results of such evaluation to FDA and to all reviewing IRB's and participating investigators within 10 working days after the sponsor first receives notice of the effect. Thereafter the sponsor shall submit such additional reports concerning the effect as FDA requests.

(b) *Withdrawal of IRB approval*. A sponsor shall notify FDA and all reviewing IRB's and participating investigators of any withdrawal of approval of an investigation or a part of an investigation by a reviewing IRB within 5 working days after receipt of the withdrawal of approval.

(c) *Withdrawal of FDA approval*. A sponsor shall notify all reviewing IRB's and participating investigators of any withdrawal of FDA approval of the investigation, and shall do so within 5 working days after receipt of notice of the withdrawal of approval.

(d) *Progress reports*. At regular intervals, and at least yearly, a sponsor shall submit progress reports to all reviewing IRB's. In the case of a significant risk device, a sponsor shall also submit progress reports to FDA. A sponsor of a treatment IDE shall submit semi-annual progress reports to all reviewing IRB's and FDA in accordance with 812.36(f) and annual reports in accordance with this section.

(e) *Recall and device disposition*. A sponsor shall notify FDA and all reviewing IRB's of any request that an investigator return, repair, or otherwise dispose of any units of a device. Such notice shall occur within 30 working days after the request is made and shall state why the request was made.

(f) *Final report*. In the case of a significant risk device, the sponsor shall notify FDA within 30 working days of the completion or termination of the investigation and shall submit a final report to FDA and all reviewing the IRB's and participating investigators within 6 months after completion or termination. In the case of a device that is not a significant risk device, the sponsor shall submit a final report to all reviewing IRB's within 6 months after termination or completion.

(g) *Informed consent*. A sponsor shall submit to FDA a copy of any report by an investigator under paragraph (a)(5) of this section of use of a device without obtaining informed consent, within 5 working days of receipt of notice of such use.

(h) *Significant risk device determinations*. If an IRB determines that a device is a significant risk device, and the sponsor had proposed that the IRB consider the device not to be a significant risk device, the sponsor shall submit to FDA a report of the IRB's determination within 5 working days after the sponsor first learns of the IRB's determination.

(i) *Other*. A sponsor shall, upon request by a reviewing IRB or FDA, provide accurate, complete, and current information about any aspect of the investigation.

7. The PI ensures that participating investigators maintain the records required by 812.140(a)(3)(i) and make the reports required under 812.150(a) (1), (2), (5), and (7).

Records: 812.140(a)(3)(i)

Investigator records. A participating investigator shall maintain the following accurate, complete, and current records relating to the investigator's participation in an investigation:

(a) Records of each subject's case history and exposure to the device. Case histories include the case report forms and supporting data including, for example, signed and dated consent forms and medical records including, for example, progress notes of the physician, the individual's hospital chart(s), and the nurses' notes. Such records shall include:

(i) Documents evidencing informed consent and, for any use of a device by the investigator without informed consent, any written concurrence of a licensed physician and a brief description of the circumstances justifying the failure to obtain informed consent. The case history for each individual shall document that informed consent was obtained prior to participation in the study.

Reports: 812.150(a) (1), (2), (5), and (7)

Investigator reports. An investigator shall prepare and submit the following complete, accurate, and timely reports:

(a) *Unanticipated adverse device effects*. An investigator shall submit to the sponsor and to the reviewing IRB a report of any unanticipated adverse device effect occurring during an investigation as soon as possible, but in no event later than 10 working days after the investigator first learns of the effect.

(b) *Withdrawal of IRB approval*. An investigator shall report to the sponsor, within 5 working days, a withdrawal of approval by the reviewing IRB of the investigator's part of an investigation.

(c) *Informed consent*. If an investigator uses a device without obtaining informed consent, the investigator shall report such use to the sponsor and the reviewing IRB within 5 working days after the use occurs.

(d) *Other*. An investigator shall, upon request by a reviewing IRB or FDA, provide accurate, complete, and current information about any aspect of the investigation.

8. The PI complies with the prohibitions in 812.7 against promotion and other practices.

A sponsor, investigator, or any person acting for or on behalf of a sponsor or investigator shall not:

(a) Promote or test market an investigational device, until after FDA has approved the device for commercial distribution.

(b) Commercialize an investigational device by charging the subjects or investigators for a device a price larger than that necessary to recover costs of manufacture, research, development, and handling.

(c) Unduly prolong an investigation. If data developed by the investigation indicate in the case of a class III device that premarket approval cannot be justified or in the case of a class II device that it will not comply with an applicable performance standard or an amendment to that standard, the sponsor shall promptly terminate the investigation.

(d) Represent that an investigational device is safe or effective for the purposes for which it is being investigated.