

(c) Clinical investigations designed to obtain evidence that any drug product containing colloidal silver or silver salts labeled, represented, or promoted for any OTC drug use is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs as set forth in part 312 of this chapter.

(d) After September 16, 1999, any such OTC drug product containing colloidal silver or silver salts initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

[64 FR 44658, Aug. 17, 1999]

## **PART 312—INVESTIGATIONAL NEW DRUG APPLICATION**

### **Subpart A—General Provisions**

- Sec.  
 312.1 Scope.  
 312.2 Applicability.  
 312.3 Definitions and interpretations.  
 312.6 Labeling of an investigational new drug.  
 312.7 Promotion and charging for investigational drugs.  
 312.10 Waivers.

### **Subpart B—Investigational New Drug Application (IND)**

- 312.20 Requirement for an IND.  
 312.21 Phases of an investigation.  
 312.22 General principles of the IND submission.  
 312.23 IND content and format.  
 312.30 Protocol amendments.  
 312.31 Information amendments.  
 312.32 IND safety reports.  
 312.33 Annual reports.  
 312.34 Treatment use of an investigational new drug.  
 312.35 Submissions for treatment use.  
 312.36 Emergency use of an investigational new drug (IND).  
 312.38 Withdrawal of an IND.

### **Subpart C—Administrative Actions**

- 312.40 General requirements for use of an investigational new drug in a clinical investigation.  
 312.41 Comment and advice on an IND.  
 312.42 Clinical holds and requests for modification.  
 312.44 Termination.  
 312.45 Inactive status.  
 312.47 Meetings.

- 312.48 Dispute resolution.

### **Subpart D—Responsibilities of Sponsors and Investigators**

- 312.50 General responsibilities of sponsors.  
 312.52 Transfer of obligations to a contract research organization.  
 312.53 Selecting investigators and monitors.  
 312.54 Emergency research under §50.24 of this chapter.  
 312.55 Informing investigators.  
 312.56 Review of ongoing investigations.  
 312.57 Recordkeeping and record retention.  
 312.58 Inspection of sponsor's records and reports.  
 312.59 Disposition of unused supply of investigational drug.  
 312.60 General responsibilities of investigators.  
 312.61 Control of the investigational drug.  
 312.62 Investigator recordkeeping and record retention.  
 312.64 Investigator reports.  
 312.66 Assurance of IRB review.  
 312.68 Inspection of investigator's records and reports.  
 312.69 Handling of controlled substances.  
 312.70 Disqualification of a clinical investigator.

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

- 312.80 Purpose.  
 312.81 Scope.  
 312.82 Early consultation.  
 312.83 Treatment protocols.  
 312.84 Risk-benefit analysis in review of marketing applications for drugs to treat life-threatening and severely-debilitating illnesses.  
 312.85 Phase 4 studies.  
 312.86 Focused FDA regulatory research.  
 312.87 Active monitoring of conduct and evaluation of clinical trials.  
 312.88 Safeguards for patient safety.

### **Subpart F—Miscellaneous**

- 312.110 Import and export requirements.  
 312.120 Foreign clinical studies not conducted under an IND.  
 312.130 Availability for public disclosure of data and information in an IND.  
 312.140 Address for correspondence.  
 312.145 Guidance documents.

### **Subpart G—Drugs for Investigational Use in Laboratory Research Animals or in Vitro Tests**

- 312.160 Drugs for investigational use in laboratory research animals or in vitro tests.

## Food and Drug Administration, HHS

## § 312.2

AUTHORITY: 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 371, 381, 382, 383, 393; 42 U.S.C. 262.

SOURCE: 52 FR 8831, Mar. 19, 1987, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 312 can be found at 69 FR 13717, Mar. 24, 2004.

### Subpart A—General Provisions

#### § 312.1 Scope.

(a) This part contains procedures and requirements governing the use of investigational new drugs, including procedures and requirements for the submission to, and review by, the Food and Drug Administration of investigational new drug applications (IND's). An investigational new drug for which an IND is in effect in accordance with this part is exempt from the premarketing approval requirements that are otherwise applicable and may be shipped lawfully for the purpose of conducting clinical investigations of that drug.

(b) References in this part to regulations in the Code of Federal Regulations are to chapter I of title 21, unless otherwise noted.

#### § 312.2 Applicability.

(a) *Applicability.* Except as provided in this section, this part applies to all clinical investigations of products that are subject to section 505 of the Federal Food, Drug, and Cosmetic Act or to the licensing provisions of the Public Health Service Act (58 Stat. 632, as amended (42 U.S.C. 201 *et seq.*)).

(b) *Exemptions.* (1) The clinical investigation of a drug product that is lawfully marketed in the United States is exempt from the requirements of this part if all the following apply:

(i) The investigation is not intended to be reported to FDA as a well-controlled study in support of a new indication for use nor intended to be used to support any other significant change in the labeling for the drug;

(ii) If the drug that is undergoing investigation is lawfully marketed as a prescription drug product, the investigation is not intended to support a significant change in the advertising for the product;

(iii) The investigation does not involve a route of administration or dos-

age level or use in a patient population or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with the use of the drug product;

(iv) The investigation is conducted in compliance with the requirements for institutional review set forth in part 56 and with the requirements for informed consent set forth in part 50; and

(v) The investigation is conducted in compliance with the requirements of § 312.7.

(2)(i) A clinical investigation involving an in vitro diagnostic biological product listed in paragraph (b)(2)(ii) of this section is exempt from the requirements of this part if (a) it is intended to be used in a diagnostic procedure that confirms the diagnosis made by another, medically established, diagnostic product or procedure and (b) it is shipped in compliance with § 312.160.

(ii) In accordance with paragraph (b)(2)(i) of this section, the following products are exempt from the requirements of this part: (a) blood grouping serum; (b) reagent red blood cells; and (c) anti-human globulin.

(3) A drug intended solely for tests in vitro or in laboratory research animals is exempt from the requirements of this part if shipped in accordance with § 312.160.

(4) FDA will not accept an application for an investigation that is exempt under the provisions of paragraph (b)(1) of this section.

(5) A clinical investigation involving use of a placebo is exempt from the requirements of this part if the investigation does not otherwise require submission of an IND.

(6) A clinical investigation involving an exception from informed consent under § 50.24 of this chapter is not exempt from the requirements of this part.

(c) *Bioavailability studies.* The applicability of this part to in vivo bioavailability studies in humans is subject to the provisions of § 320.31.

(d) *Unlabeled indication.* This part does not apply to the use in the practice of medicine for an unlabeled indication of a new drug product approved under part 314 or of a licensed biological product.