

## § 812.145

repaired, or disposed of in other ways by the investigator or another person, and the reasons for and method of disposal.

(3) Signed investigator agreements including the financial disclosure information required to be collected under § 812.43(c)(5) in accordance with part 54 of this chapter.

(4) For each investigation subject to § 812.2(b)(1) of a device other than a significant risk device, the records described in paragraph (b)(5) of this section and the following records, consolidated in one location and available 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.

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

(6) Any other records that FDA requires to be maintained by regulation or by specific requirement for a category of investigation or a particular investigation.

(c) *IRB records.* An IRB shall maintain records in accordance with part 56 of this chapter.

(d) *Retention period.* An investigator or sponsor shall maintain the records required by this subpart during the investigation and for a period of 2 years after the latter of the following two dates: The date on which the investigation is terminated or completed, or the date that the records are no longer required for purposes of supporting a pre-market approval application or a notice of completion of a product development protocol.

(e) *Records custody.* An investigator or sponsor may withdraw from the responsibility to maintain records for the period required in paragraph (d) of this

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section and transfer custody of the records to any other person who will accept responsibility for them under this part, including the requirements of § 812.145. Notice of a transfer shall be given to FDA not later than 10 working days after transfer occurs.

[45 FR 3751, Jan. 18, 1980, as amended at 45 FR 58843, Sept. 5, 1980; 46 FR 8957, Jan. 27, 1981; 61 FR 57280, Nov. 5, 1996; 63 FR 5253, Feb. 2, 1998]

### § 812.145 Inspections.

(a) *Entry and inspection.* A sponsor or an investigator who has authority to grant access shall permit authorized FDA employees, at reasonable times and in a reasonable manner, to enter and inspect any establishment where devices are held (including any establishment where devices are manufactured, processed, packed, installed, used, or implanted or where records of results from use of devices are kept).

(b) *Records inspection.* A sponsor, IRB, or investigator, or any other person acting on behalf of such a person with respect to an investigation, shall permit authorized FDA employees, at reasonable times and in a reasonable manner, to inspect and copy all records relating to an investigation.

(c) *Records identifying subjects.* An investigator shall permit authorized FDA employees to inspect and copy records that identify subjects, upon notice that FDA has reason to suspect that adequate informed consent was not obtained, or that reports required to be submitted by the investigator to the sponsor or IRB have not been submitted or are incomplete, inaccurate, false, or misleading.

### § 812.150 Reports.

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

(1) *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.

(2) *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.

(3) *Progress.* An investigator shall submit progress reports on the investigation to the sponsor, the monitor, and the reviewing IRB at regular intervals, but in no event less often than yearly.

(4) *Deviations from the investigational plan.* An investigator shall notify the sponsor and the reviewing IRB (see § 56.108(a) (3) and (4)) of any deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such notice shall be given as soon as possible, but in no event later than 5 working days after the emergency occurred. Except in such an emergency, prior approval by the sponsor is required for changes in or deviations from a plan, and if these changes or deviations may affect the scientific soundness of the plan or the rights, safety, or welfare of human subjects, FDA and IRB in accordance with § 812.35(a) also is required.

(5) *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.

(6) *Final report.* An investigator shall, within 3 months after termination or completion of the investigation or the investigator's part of the investigation, submit a final report to the sponsor and the reviewing IRB.

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

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

(1) *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.

(2) *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.

(3) *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.

(4) *Current investigator list.* A sponsor shall submit to FDA, at 6-month intervals, a current list of the names and addresses of all investigators participating in the investigation. The sponsor shall submit the first such list 6 months after FDA approval.

(5) *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.

(6) *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.

(7) *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.

(8) *Informed consent.* A sponsor shall submit to FDA a copy of any report by an investigator under paragraph (a)(5)

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of this section of use of a device without obtaining informed consent, within 5 working days of receipt of notice of such use.

(9) *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.

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

[45 FR 3751, Jan. 18, 1980, as amended at 45 FR 58843, Sept. 5, 1980; 48 FR 15622, Apr. 12, 1983; 62 FR 48948, Sept. 18, 1997]

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**Subpart A—General**

**§814.1 Scope.**

(a) This part implements section 515 of the act by providing procedures for the premarket approval of medical devices intended for human use.

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

(c) This part applies to any class III medical device, unless exempt under section 520(g) of the act, that:

(1) Was not on the market (introduced or delivered for introduction into commerce for commercial distribution) before May 28, 1976, and is not substantially equivalent to a device on the market before May 28, 1976, or to a device first marketed on, or after that date, which has been classified into class I or class II; or

(2) Is required to have an approved premarket approval application (PMA) or a declared completed product development protocol under a regulation