Flowchart: Devices

Is this study subject to FDA regulations under 21 CFR 812?

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Is this study subject to FDA regulations at 21 CFR 812? DEVICES

No IDE is required. No need to comply with 21 CFR 50/56. Still needs IRB approval if human subjects involved.

Medical Device to be used, administered, applied, implanted to subjects or identifiable specimens?

NO

Does it meet exemption category 4?

NO

NO

YES

YES

Looking at safety or effectiveness of the device?

YES

Does it meet one of the exemption criteria? 21 CFR 812.2(c)1,2,3 or 7

YES

IDE Exempt. Must still comply with 21 CFR 50/56

NO

Conduct under IDE (see responsibilities)

YES

Conduct under Abbreviated IDE requirements and IAW 21 CFR 50/56

Exemption categories 21 CFR 812.2(c):

1. Device other than transitional device, in commercial distribution before May 28, 1976, when used or investigated IAW the indications in labeling in effect at that time.
2. Device, other than transitional device, introduced after May 28, 1976, that the FDA has determined to be substantially equivalent to a device in commercial distribution before May 28, 1976, that is being used IAW the indications in the labeling FDA reviewed.
3. See below
4. A device undergoing consumer preference testing, testing of a modification, or testing of a combination of two or more devices in commercial distribution, if the purpose of the testing is not for the purpose of determining safety or effectiveness and does not put subjects at risk.
5.-6. animal devices
7. A custom device ((21 CFR 812.3(b)), unless the device is being used to determine safety or effectiveness for commercial distribution.

Diagnostic Device testing exemption criteria: ALL criteria must be met

1. Is noninvasive (see def'n)
2. Does not require an invasive sampling procedure that presents significant risk
3. does not by design or intention introduce energy into a subject
4. Is not used as a diagnostic procedure without confirmation of the diagnosis by another, medically established product or procedure.

Noninvasive device or procedure definition: DOES NOT

1. penetrate the skin or mucous membranes of the body, the ocular cavity or urethra, or 2. enter the ear beyond the external auditory canal, the nose beyond the nares, the mouth beyond the pharynx, the anal canal beyond the rectum, or the vagina beyond the cervical os. Simple venipuncture is considered non invasive. The use of surplus body samples of body fluids or tissues that are left over from samples taken for non-investigational purposes is also considered non invasive.

Abbreviated IDE requirements: ALL must be met

The device is not a banned device
The sponsor labeled the device in accordance with 21 CFR 812.5.
The sponsor 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.
The sponsor will ensure that each investigator participating in an investigation of the device obtains from each subject under the investigator's care consent under 21 CFR 50 and documents it, unless the requirement for a signed consent form is waived.
The sponsor will comply with the requirements of 21 CFR 812.46 with respect to monitoring investigations;
The sponsor will maintain the records required under 21 CFR 812.7 against promotion and other practices

Adapted Medical Device Definition: An instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or component, part, or accessory... intended to diagnose a disease or condition or to cure, mitigate, treat, or for prevention of disease or it affects the structure or function of the body....and does not achieve its primary purpose through chemical action...or by being metabolized action. A device could be anything from a cardiac stent, to a robot used in a surgical procedure to a software program to a test kit.

Significant Risk (SR) and Nonsignificant Risk(NSR) Study Determinations: Study sponsors are responsible for making the initial risk determination for the study and presenting it to the IRB. Unless FDA has already made a risk determination for the study, the IRB must review the Sponsor’s SR or NSR determination and modify the determination if the IRB disagrees with the sponsor. The IRB should use the criteria in the “Information sheet Guidance for IRBs, Clinical Investigators, and Sponsors: Significant Risk and Nonsignificant risk Medical Device Studies” when reviewing a study and making SR/NSR decision.

Institutional responsibilities

2. IRB must review the device manual
3. IRB must assign study risk determination

USAMRMC Version 6 May 2011