# Goals and Initiatives for the IDE Program #D95-1 (blue book memo) (Text Only)

This guidance was written prior to the February 27, 1997 implementation of FDA's Good Guidance Practices, GGP's. It does not create or confer rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. This guidance will be updated in the next revision to include the standard elements of GGP's.

## IDE Memorandum - #D95-1

Office of Device Evaluation (HFZ-400)

Goals and Initiatives for the IDE Program

ODE Review Staff

Purpose

The purpose of this memorandum is to establish procedures for the efficient review of IDEs and to identify performance goals for the IDE Program.

Background

The Office of Device Evaluation (ODE) has traditionally approved approximately one third of the original investigational device exemption (IDE) applications in the first 30 day review cycle. In recent times (fiscal years (FY) 1993 and 1994), however, only 25% of the original IDE applications were approved during this initial review period. In addition, the average total time from receipt of the application to approval increased to 242 days after averaging 178 days for the last 5 years.

The reasons for non-approval may be summarized as relating to inadequate characterization of the device being investigated, poorly designed clinical trials, and inadequate subject protection measures. In all cases, ODE's intent has been to improve the quality of the information derived from the investigations and to protect the well-being of those participating in the clinical trials. We must recognize, however, that our approach has had some unintended effects such as discouraging the conduct of the clinical trials and thus the generation of potentially useful information or causing the trials to be conducted outside the United States without guidance from FDA. ODE staff has also been expending considerable resources in reviewing multiple amendments over an extended period of time.

If the performance goals presented below are achieved, the gain to be realized by both the regulated industry and ODE staff would be significant. Increasing the approval rate and reducing the time to approval for original IDEs to more reasonable levels will encourage the medical device industry to conduct their clinical investigations in the

United States (U.S.) rather than overseas. If the clinical trials are conducted domestically, and thus with FDA guidance, the quality of the

trials and the data generated from them should be more congruent with premarket approval requirements than if the investigations were conducted overseas without input from FDA review. In addition, the data resulting from the domestic trials will be representative of medical practice in the U.S. Thus, the review process for the marketing applications should proceed more expeditiously, saving time and resources for the regulated industry and FDA. Finally, if the device trials are conducted here, U.S. physicians will have earlier access to and experience with these new technologies, while U.S. patients participating in the trials will also have the potential benefit of these novel therapies.

Below, the performance goals for the IDE Program and the initiatives to be implemented to help reach these goals are presented.

1) During FY95, increase the approval rate for original IDEs from its current rate of 27% (FY94) to approximately 66% in the first 30 day review cycle, especially for those submissions for which there was FDA-Industry interaction during the process (e.g., pre-IDE meetings, submissions, etc.).

2) During FY95, reduce the average number of review cycles to approval to less than two cycles. Currently, more than two amendments per IDE are required before approval of the application. Thus, at least three review cycles are generally required before the initiation of a device clinical trial.

Procedures

In order to help ODE's reviewing divisions reach these performance goals, the following initiatives will be implemented.

1) Pre-IDE meetings. Sponsors should be encouraged to meet with ODE staff before the IDE application is submitted for review. Meeting with the regulated industry before the IDE application is submitted should serve to increase the sponsor's understanding of various FDA requirements, regulations, and guidance documents and thus lead to more complete original IDE applications. (See attached policy entitled, "Procedures for Pre-IDE Meetings and Submissions.")

2) Pre-IDE applications. Sponsors should be encouraged to submit

preliminary information for ODE review before making the formal IDE submission. Sponsors should submit those sections of the IDE application for which they require FDA guidance (e.g., clinical protocol design, pre-clinical testing, etc.) while preparing the remainder of the IDE submission. This will allow ODE staff to provide informal guidance to the industry on troublesome parts of the IDE application before the official submission is made. In addition, since this informal review will be conducted while other parts of the application are being prepared, it should not extend the total preparation time for the IDE application. (See attached policy entitled, "Procedures for Pre-IDE Meetings and Submissions.")

3) An interactive review process. By communicating frequently with industry during the review process, rather than only at the completion of the review, deficient information can be addressed within fewer review cycles. This would be of significant benefit to both industry and ODE staff. ODE reviewers, with the concurrence of their supervisors, should feel free to use the telephone or telefacsimile to aid in the interactive review. Documentation of this communication must be included in the IDE record, and hardcopies of information transmitted by telefacsimile must be logged into the IDE database. (See attached policy entitled,"IDE Telefacsimile Policy.")

4) Use of new strategies in the clinical development of devices. If the original IDE application does not support the initiation of the substantive (pivotal) clinical trial, ODE staff should consider the use of feasibility/pilot studies. Such trials may be used to: provide investigators with initial device experience; help address specific safety concerns; permit initial assessment of device design; better define the clinical endpoints, success/failure criteria, the intended patient population, and appropriate follow-up period; assess the therapeutic effect of the device and estimate the required patient population size; and clarify the possible medical claims before the multi-centered trial is initiated. The type of device, the risks posed by the device, what is known about these risks, and the questions to be addressed in the limited study must all be considered when deciding whether a feasibility/pilot study is appropriate, and if so, the size of the study. Thus, the use of this type of strategy in the conduct of clinical trials not only permits a trial which may have otherwise been disapproved to be initiated on a limited basis but also provides for a better designed substantive trial for the marketing application.

Effective Date

This memorandum is effective immediately.

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Susan Alpert, Ph.D., M.D.

# PROCEDURES FOR

# PRE-IDE MEETINGS AND SUBMISSIONS

In order to facilitate the initiation of clinical trials under the Investigational Device Exemptions (IDE) regulations, FDA is encouraging sponsors to begin communicating with the reviewing division prior to the submission of the original IDE application. This communication may take the form of a "Pre-IDE" meeting and/or a Pre-IDE submission. Pre-IDE meetings should occur early in the IDE preparation process so that any advice/guidance provided by ODE staff can be used in the development of supporting pre-clinical data or incorporated into the IDE application. These meetings may take the form of telephone conference calls, video conferences, or face-to-face discussions. In addition to the general requirements set forth in Blue Book Memorandum #I89-3, "Meetings with the Regulated Industry," and #I93-1, "Telephone Communications Between ODE Staff and Manufacturers," the following requirements apply specifically to the IDE program. All pre-IDE meetings should be recorded by the division and reported on a quarterly basis to senior ODE management. Minutes of the meeting should include the date of the meeting, the attendees (FDA and industry), whether material was submitted prior to the meeting for discussion/review by ODE staff, a summary of the discussion, and any recommendations or guidance provided by FDA.

Pre-IDE submissions may consist of a draft clinical protocol, a proposal for pre-clinical testing, pre-clinical test results, or other information for which the sponsor wishes to obtain preliminary FDA review and comment in order to facilitate the IDE application process. Pre-IDE submissions may also consist of protocols for foreign studies when the studies will be used to support future marketing applications to be submitted to FDA.

Pre-IDE submissions will receive the same confidentiality of data and information as provided for IDE applications under 21 CFR 812.38. Therefore, FDA will not disclose the existence of a pre-IDE submission unless its existence has previously been publicly disclosed or acknowledged, until FDA approves an application for marketing approval of the device subject to this submission.

Pre-IDE submissions must be recorded and tracked, and so should be submitted in triplicate to the Document Mail Center (DMC) for processing. The DMC will assign the document a Pre-IDE number (PIDE), record it in the Pre-IDE logbook, and forward it to the appropriate division for review. (At this time, the IDE database cannot track Pre-IDE submissions.) If a Pre-IDE submission is received by the division without going through the DMC, the division is responsible for taking the document to the DMC so that it can be properly processed. At the time of log-in, the document mail clerk will also record the dates of submission and receipt, the sponsor's name, the name of the device, and the division to which it is assigned. The Pre-IDE number will be recorded on the top right corner of the submission, just as is done for official IDE applications.

Since the IDE database base cannot track Pre-IDEs, the divisions will be responsible for tracking the submissions and ensuring that a timely response is issued. A Pre-IDE boilerplate acknowledgment letter is available on the LAN (P-01) and should be sent to the sponsor upon receipt of the Pre-IDE submission. This letter indicates that FDA will attempt to provide a response to the sponsor in a timely manner, usually within 60 days of receipt. ODE's response may take the form of a written letter, or comments may be provided in a meeting or during a telephone conference call. Whichever method of response is used, it should be documented in the Pre-IDE file. (A copy of the letter, meeting minutes, or memorandum of the telephone conversation should be securely attached to the Pre-IDE submission.) There is a shelf in DMC where Pre-IDE submissions may be stored.

When the original IDE application is submitted, the division must note in the comments section of the IDE Tracking Sheets the Pre-IDE number assigned by the DMC if a Pre-IDE had been reviewed for this submission. This will allow a method of connecting the Pre-IDE to the original IDE application.

IDE Memorandum - #D95-1

Attachment B - Page 1

IDE TELEFACSIMILE POLICY

General guidance for the acceptance of telefacsimile (FAX) telecommunications is provided in ODE's Blue Book Memorandum #I90-3 "Document Control Procedures." In this memorandum, it is stated that "As a general rule, information and data required to review and reach a decision on a submission may not be accepted via fax." In addition, according to the IDE regulations (21 CFR 812.20(a)(3)), all correspondence concerning an application or a supplemental application must be submitted by registered mail or by hand. The intent of this section of the regulations was to ensure that in order for information to be considered an official part of the IDE file, that information must be submitted in writing. At the time the IDE regulations were developed, however, the technology which permits communication via telefacsimile did not exist. Therefore, ODE has requested an official ruling from the Office of General Counsel on the acceptability of FAXed information, i.e., the need for a follow-up hardcopy. Until a definitive response is received, the policy presented below will serve as the official IDE FAX policy for the Office.

As stated above, past Office policy regarding use of FAXed information, as outlined in Blue Book Memorandum #I90-3 and as amplified in a February 17, 1994 memorandum by ODE's Integrity Officer, dictated that FAXed information could be used for purposes such as to facilitate the exchange of ideas and clarify points of discussion but could not serve as the basis of a decision without a confirmatory hardcopy. While the above policy statements remain in effect, ODE is encouraging more liberal use of the FAX machine as an aid to resolving deficiencies in the IDE application. Thus, a sponsor could submit information addressing deficiencies in areas such as the pre-clinical testing, the investigational plan, the risk analysis, the informed consent document, manufacturing procedures, etc., which had previously been discussed by phone with the reviewer. Although a follow-up hardcopy of the FAXed information still needs to be added to the administrative record and thus must be submitted to the Document Mail Center (DMC), early receipt of the information by FAX should permit a more expeditious review of the information and resolution of the deficiencies.

A follow-up hardcopy of the FAXed information should be received in the DMC by the 30th day of the review cycle so that it can be properly logged in as

an IDE amendment. Therefore, reviewers must notify the sponsor that any information which is FAXed to ODE must also be sent in triplicate by overnight mail to the DMC for receipt by the next business day. If multiple FAXes are received by the division during the course of the review, hardcopies of all of the information may be submitted in one mailing rather than after each individual FAX. When the follow-up hardcopies are received by the DMC, one copy will be added to Copy 1 of the IDE file and one copy will be forwarded to the division for verification that the hardcopy is in fact a duplicate of the FAXed information. The hardcopy and a note stating that the hardcopy is a duplicate of the previously received FAX should be added to the file by the reviewer. The third copy of the hardcopy is the reviewer's deskcopy and can be added to Copy 3 of the IDE file or discarded.

If the follow-up hardcopy is expected to arrive after day 30, reviewers must FAX the Duplicate Information Sheet (see attachment) to the sponsor. This sheet is to be used as a cover sheet to the hardcopy to ensure that when the information is received by the DMC, it will be correctly logged in as an IDE amendment to the original IDE application rather than as a supplement. Subsequent processing of the hardcopy will be as above.

FAX

DUPLICATE

IDE Number:_____

I certify that the information contained in this submission is an exact duplicate of information which was previously provided by telefacsimile on the date(s) listed below. (That is, no new information which has not been previously provided is contained in this submission.)

Submitted by: _____ _____
(Name) (Signature and date)

_____
(Title)

_____
(Company Name)

_____
(Street Address)

_____
(City, State and Zip Code)

_____
(Phone Number)

**More in Guidance Documents (Medical Devices and Radiation-Emitting Products) (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm)**

**Cross-Center Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm081752.htm)**

**Office of Compliance Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070269.htm)**

**Office of the Center Director Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm110228.htm)**

**Office of Communication and Education Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070271.htm)**

**Office of Device Evaluation Final Guidance 2010 - 2016 (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm198577.htm)**

**Office of Device Evaluation Final Guidance 1998 - 2009 (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070272.htm)**

**Office of Device Evaluation Final Guidance 1976 - 1997 (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm080283.htm)**

**Office of In Vitro Diagnostics and Radiological Health Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070274.htm)**

**Office of Surveillance and Biometrics Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070275.htm)**

**Office of Science and Engineering Laboratories Final Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070277.htm)**

**Draft Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm407274.htm)**

**Radiation-Emitting Products Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm283507.htm)**

**Withdrawn Guidance (/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm425025.htm)**