

authorized designee. If, however, a physician in an emergency situation determines that approval from an IRB cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be administered without prior approval by the IRB located at the facility or by a similarly constituted IRB that has agreed to oversee such use. In such an emergency situation, the physician shall, within 5 days after the use of the device, provide written notification to the chairman of the IRB of such use. Such written notification shall include the identification of the patient involved, the date on which the device was used, and the reason for the use.

(b) *Withdrawal of IRB approval.* A holder of an approved HDE shall notify FDA of any withdrawal of approval for the use of a HUD by a reviewing IRB within 5 working days after being notified of the withdrawal of approval.

[61 FR 33244, June 26, 1996, as amended at 63 FR 59221, Nov. 3, 1998]

§ 814.126 Postapproval requirements and reports.

(a) An HDE approved under this subpart H shall be subject to the postapproval requirements and reports set forth under subpart E of this part, as applicable, with the exception of § 814.82(a)(7). In addition, medical device reports submitted to FDA in compliance with the requirements of part 803 of this chapter shall also be submitted to the IRB of record.

(b) In addition to the reports identified in paragraph (a) of this section, the holder of an approved HDE shall prepare and submit the following complete, accurate, and timely reports:

(1) *Periodic reports.* An HDE applicant is required to submit reports in accordance with the approval order. Unless FDA specifies otherwise, any periodic report shall include:

(i) An update of the information required under § 814.102(a) in a separately bound volume;

(ii) An update of the information required under § 814.104(b)(2), (b)(3), and (b)(5);

(iii) The number of devices that have been shipped or sold since initial marketing approval under this subpart H and, if the number shipped or sold exceeds 4,000, an explanation and esti-

mate of the number of devices used per patient. If a single device is used on multiple patients, the applicant shall submit an estimate of the number of patients treated or diagnosed using the device together with an explanation of the basis for the estimate;

(iv) Information describing the applicant's clinical experience with the device since the HDE was initially approved. This information shall include safety information that is known or reasonably should be known to the applicant, medical device reports made under part 8dd of this chapter, any data generated from the postmarketing studies, and information (whether published or unpublished) that is known or reasonably expected to be known by the applicant that may affect an evaluation of the safety of the device or that may affect the statement of contraindications, warnings, precautions, and adverse reactions in the device's labeling; and

(v) A summary of any changes made to the device in accordance with supplements submitted under § 814.108. If information provided in the periodic reports, or any other information in the possession of FDA, gives the agency reason to believe that a device raises public health concerns or that the criteria for exemption are no longer met, the agency may require the HDE holder to submit additional information to demonstrate continued compliance with the HDE requirements.

(2) *Other.* An HDE holder shall maintain records of the names and addresses of the facilities to which the HUD has been shipped, correspondence with reviewing IRB's, as well as any other information requested by a reviewing IRB or FDA. Such records shall be maintained in accordance with the HDE approval order.

[61 FR 33244, June 26, 1996, as amended at 63 FR 59221, Nov. 3, 1998]

PART 820—QUALITY SYSTEM REGULATION

Subpart A—General Provisions

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