From: OC GCP Questions
To: [redacted]
Subject: Investigational Product Accountability - Sponsor
Date: Wednesday, March 28, 2018 10:42:00 AM
Attachments: [redacted]

Good morning –

Please note that FDA's regulations do not specify the destruction of pharmaceuticals for future use of IP after a trial has closed. Generally, when the regulations are silent institutions are free to develop their own standard operating procedures to address a specific situation. For drug accountability, the sponsor would have to follow state and local laws as well. The regulations pertaining to sponsor and clinical investigator responsibility for the accountability and disposition of the drug state:

For investigator:

Sec. 312.61 Control of the investigational drug.

An investigator shall administer the drug only to subjects under the investigator's personal supervision or under the supervision of a subinvestigator responsible to the investigator. The investigator shall not supply the investigational drug to any person not authorized under this part to receive it.

Sec. 312.62 Investigator recordkeeping and record retention.

(a) Disposition of drug. An investigator is required to maintain adequate records of the disposition of the drug, including dates, quantity, and use by subjects. If the investigation is terminated, suspended, discontinued, or completed, the investigator shall return the unused supplies of the drug to the sponsor, or otherwise provide for disposition of the unused supplies of the drug under 312.59.

For sponsor:

Sec. 312.57 Recordkeeping and record retention. (a) A sponsor shall maintain adequate records showing the receipt, shipment, or other disposition of the investigational drug. These records are required to include, as appropriate, the name of the investigator to whom the drug is shipped, and the date, quantity, and batch or code mark of each such shipment.

Sec. 312.59 Disposition of unused supply of investigational drug. The sponsor shall assure the return of all unused supplies of the investigational drug from each individual investigator whose participation in the investigation is discontinued or terminated. The sponsor may authorize alternative disposition of unused supplies of the investigational drug provided this alternative disposition does not expose humans to risks from the drug. The sponsor shall maintain written records of any disposition of the drug in accordance with 312.57.

As you can see, the regulations are very general to allow sponsors and study sites the necessary flexibility to account for the supplies of investigational product that were received, administered, returned, and the final disposition (e.g., destruction) of any unused investigational articles. The sponsor may authorize investigators to use an alternative disposition of unused supplies of the investigational drug and would need to instruct the investigators on how this is to be done.

You may also wish to consult the Center for Drugs (CDER) at druginfo@fda.hhs.gov

Kind regards,

Doreen M. Kezer, MSN
Senior Health Policy Analyst

Office of Good Clinical Practice
Office of the Commissioner, FDA

This communication does not constitute a written advisory opinion under 21 CFR 10.85, but rather is an informal communication under 21 CFR 10.85(k) which represents the best judgment of the employee providing it. This information does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate or commit the agency to the views expressed.

From: [redacted]
Sent: Tuesday, March 27, 2018 3:33 PM
To: OC GCP Questions <gcpquestions@fda.hhs.gov>
Subject: Investigational Product Accountability - Sponsor

Dear FDA Representative,

This question has been recurring among sponsors of investigational drug, device, and combination product studies as to the extent of the sponsor's accountability requirements. After investigational product has been returned to the sponsor and reconciliation has been documented (e.g., number of products shipped to site(s) matches the number of products used versus returned back to the sponsor [returned due to study completion or product expired, for example]), is the sponsor required by regulation to create and maintain further records of product disposition at the sponsor level for what happens to the product after the sponsor's receipt or is it sufficient to reconcile that it has been received and matches? For example, is it acceptable for the sponsor to give the returned product to their R&D Department (e.g., where they may use some units for testing or for demo purposes) but with no further records of what happens to each individual unit after receipt by R&D or must the sponsor have records showing the *final* disposition of every unit of drug/device that has been returned?

I've included the applicable sections from both the investigational drug and device regulations. Sponsors are interpreting the requirements below in different ways… some interpret the requirements to mean that they need only to account for the product through to return, while others interpret this to mean they must account for each individual unit of product through to its final disposition.

- Drug: Sec. 312.56(b) stipulates "If the investigator's participation in the investigation is ended, the sponsor shall require that the investigator dispose of or return the investigational drug in accordance with the requirements of 312.59 and shall notify FDA." Sec. 312.59 Disposition of unused supply of investigational drug. specifies "The sponsor shall assure the return of all unused supplies of the investigational drug from each individual investigator whose participation in the investigation is discontinued or terminated. The sponsor may authorize alternative disposition of unused supplies of the investigational drug provided this alternative disposition does not expose humans to risks from the drug. The sponsor shall maintain written records of any disposition of the drug in accordance with 312.57." And Sec.

312.57 requires the sponsor to “maintain adequate records showing the receipt, shipment, or other disposition of the investigational drug. These records are required to include, as appropriate, the name of the investigator to whom the drug is shipped, and the date, quantity, and batch or code mark of each such shipment.”

- Device: Sec. 812.110(e) stipulates “Upon completion or termination of a clinical investigation or the investigator`s part of an investigation, or at the sponsor`s request, an investigator shall return to the sponsor any remaining supply of the device or otherwise dispose of the device as the sponsor directs.” Sec. 812.140(b)(2) stipulates that the sponsor shall maintain records of shipment and disposition, specifically noting that “Records of shipment shall include the name and address of the consignee, type and quantity of device, date of shipment, and batch number or code mark. Records of disposition shall describe the batch number or code marks of any devices returned to the sponsor, repaired, or disposed of in other ways by the investigator or another person, and the reasons for and method of disposal.”

Your advice regarding the correct interpretation is greatly appreciated.

Kind Regards,

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[redacted]

[redacted]