SUBJECT:	IMPLEMENTATION DATE
INSPECTION OF MEDICAL DEVICE MANUFACTURERS	02/02/2026

DATA REPORTING

PRODUCT CODES	PRODUCT/ASSIGNMENT CODES	
73-91	82850A; 42850A	Non-baseline Surveillance Inspections
	82850B; 42850B	Baseline Surveillance Inspections
	82850C; 42850C	Compliance Follow-up Inspections
	82850G	All For- Cause Inspections
	82850H	Specific Product Risk Assignment Inspections
	81011	Report Time spent on Assessment of Firm's MDR Practices
	81850T	Report Time spent on Assessment of Firm's Tracking Practices
	81850R	Report Time spent on Assessment of Firm's Corrections and Removals Practices
	82016	Unique Device Identifier (UDI)
	83850	PMA Preapproval Inspections
	83850A	PMA Postmarket Inspections

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PART I - BACKGROUND

This Inspection of Medical Device Manufacturers Compliance Program (CP 7382.850) provides instruction to FDA field and Center staff for inspection and administrative/enforcement activities related to:

- Statutory requirements in the Federal Food, Drug, and Cosmetic Act (FD&C Act) including updates to the FD&C Act as required under the FDA Reauthorization Act of 2017 (FDARA), the Food and Drug Omnibus Reform Act of 2022 (FDORA) and the Consolidated Appropriation Act, 2023
- Quality Management System Regulation (QMSR) (21 CFR Part 820)
- Premarket Approval
- Medical Device Reporting (MDR) regulation (21 CFR Part 803)
- Medical Device Tracking Requirements regulation (21 CFR Part 821)
- The Medical Devices; reports of Corrections and Removals regulation (21 CFR Part 806)
- The Establishment Registration and Device Listing for Manufacturers and Initial Importers of Devices regulation (21 CFR Part 807)
- The Unique Device Identification (UDI) regulation (21 CFR Part 801 Subpart B and 21 CFR Part 830)
- Medical Device Single Audit Program (MDSAP)
- Key compliance documents, including *Factors to Consider Regarding Benefit-Risk in Medical Device Product Availability, Compliance, and Enforcement Decisions: Guidance for Industry and Food and Drug Administration Staff,* and other enforcement guidance documents.

This Compliance Program (CP): Inspection of Medical Device Manufacturers CP 7382.850, supersedes the program of the same name issued on September 29, 2023, (previously issued as CP 7382.845) as well as the compliance program Medical Device PMA Preapproval and PMA Postmarket Inspections, CP 7383.001 issued on March 5, 2012.

This compliance program encompasses a total product life cycle (TPLC) assessment of medical devices[1] while making compliance and enforcement decisions informed by benefit-risk, including reliable information relating to patient perspectives on acceptable benefit-risk when available.

Under the Quality Management System Regulation (QMSR), manufacturers are responsible for the control of their devices from the design and development stage through postmarket surveillance. Additionally, labelers must comply with the UDI regulations to ensure adequate

[1] The Safeguarding Therapeutics Act amended the FD&C Act and redesignated the definition of device to section 201(h)(1) and added the term counterfeit device at section 201(h)(2). "The term ''counterfeit device'' means a device which, or the container, packaging, or labeling of which, without authorization, bears a trademark, trade name, or other identifying mark or imprint, or any likeness thereof, or is manufactured using a design, of a device manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed packed, or distributed such device and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other device manufacturer, processor, packer, or distributor."

identification of medical devices from manufacturing through distribution. Manufacturing processes, such as sterilization, are required to be implemented under appropriate controls. This compliance program also provides specific instruction for MDR, Tracking, Corrections and Removals, and Registration and Listing regulations and associated activities required of manufacturers and importers.

While most medical devices subject to Food and Drug Administration (FDA) oversight are regulated by the Center for Devices and Radiological Health (CDRH), the Center for Biologics Evaluation and Research (CBER) is also responsible for the regulation of certain medical devices.

CBER regulates certain devices which are cleared or approved under the Federal Food, Drug, and Cosmetic (FD&C) Act's 510(k) or PMA provisions. Inspections of these devices should be performed in accordance with Compliance Program 7382.850, Inspection of Medical Device Manufacturers and under PACs 42850A-C. A description of devices regulated by CBER is located here: Intercenter Agreement Between the Center for Biologics Evaluation and Research and the Center for Devices and Radiological Health | FDA

Examples of devices regulated by CBER include:

- Plasmapheresis machines used to collect, process and/or administer a biological product
- Quality assurance reagents and 510(k) cleared instruments intended for use in conjunction with licensed IVDs
- Peripheral blood and umbilical cord blood stem cell collection kits
- Leukocyte typing sera
- Computer software with blood bank claims
- HIV test kits with only diagnostic claims
- Automated immunohematology analyzers

In addition, CBER is designated the lead Center in FDA for regulating in vitro diagnostic (IVD) medical devices intended for screening or confirmatory clinical laboratory testing associated with blood banking practices and other process testing procedures. These IVD products include those required for screening of blood, blood products, human cells, tissues, and cellular and tissue-based products (HCT/Ps), supplemental testing, and related blood banking practices (such as blood typing and compatibility testing) and are licensed under Section 351 of the Public Health Service (PHS) Act. Inspections of IVDs licensed by CBER should be performed in accordance with the FD&C Act and the PHS Act. Inspections of IVDs licensed by CBER should be performed in accordance with the Inspection of Licensed In Vitro Diagnostic (IVD) Devices compliance program.

1. FDA REAUTHORIZATION ACT OF 2017 (FDARA)

FDARA was signed into law on August 18, 2017, amending several sections of the FD&C Act related to device inspections. However, FDARA does not affect the overarching authority of the FDA to conduct inspections otherwise permitted to ensure compliance with the FD&C Act. FDARA requires the inspection of device manufacturers in accordance with a risk-based schedule and requires the adoption of uniform processes and standards for domestic and foreign inspections, other than for-cause inspections.

Additionally, FDARA amends the FD&C Act to specify a process for persons denied a Certificate to Foreign Government (CFG) for a device that is exported from the United States. Other amendments to the FD&C Act include an agency requirement to provide nonbinding feedback in certain circumstances after an FDA inspection of a device establishment, as well as FDA's recognition of auditing organizations established by governments to facilitate international harmonization for the purposes of conducting inspections.

FDARA also amended the FD&C Act so that a drug or device is "deemed to be adulterated" if the owner, operator, or agent of the factory, warehouse, or establishment at which the drug or device is manufactured, processed, packed, or held delays, denies or limits an FDA inspection or refuses to permit entry or inspection of such factory, warehouse, or establishment. The related final guidance entitled, "Circumstances That Constitute Delaying, Denying, Limiting, or Refusing a Drug or Device Inspection" was published on June 21, 2024.

2. THE QUALITY MANAGEMENT SYSTEM REGULATION (QMSR) (21 CFR Part 820)

Manufacturers establish and follow quality management systems to help ensure that their products consistently meet applicable requirements and specifications. The quality management systems for FDA- regulated products (food, drugs, biologics, and devices) are known as Current Good Manufacturing Practices (CGMPs). CGMP requirements for devices in Part 820 (21 CFR Part 820) were first authorized by section 520(f) of the FD&C Act (21 U.S.C. 360j(f)), which was among the authorities added by the Medical Device Amendments of 1976. Under section 520(f) of the FD&C Act, the FDA issued a final rule in the Federal Register of July 21, 1978 (43 FR 31 508), prescribing CGMP requirements for the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of medical devices. This regulation became effective on December 18, 1978.

The Safe Medical Devices Act of 1990 (the SMDA), enacted on November 28, 1990, amended section 520(f) of the FD&C Act, providing the FDA with the authority to add preproduction design controls to the CGMP regulation. This change in law was based on findings that a significant proportion of device recalls were attributed to faulty design of product. The SMDA also added section 803 to the act (21 U.S.C. 383), which, among other things, encourages the FDA to work with foreign countries toward mutual recognition of CGMP requirements. As a result, the FDA undertook adding design controls, as authorized by the SMDA, to the CGMP regulation to benefit the public and industry and to achieve

greater consistency with other international standards and quality system requirements. The FDA published the revised CGMP requirements in the final rule entitled "Quality System Regulation" in the Federal Register of October 7, 1996 (61 FR 52602). This regulation became effective on June 1,1997.

To modernize and harmonize the FDA's device regulatory framework and to provide timelier introduction of safe, effective, high-quality devices for patients, the FDA published the final rule entitled "Medical Devices; Quality System Regulation Amendments" in the Federal Register on February 2, 2024 (89 FR 7496). Through this rule, FDA harmonized quality management system requirements for medical devices with requirements used by other regulatory authorities primarily by incorporating by reference the International Standard, ISO 13485:2016(E), *Medical devices-Quality management systems-Requirements for regulatory purposes*, Third edition, 2016-03-01. The QMSR also incorporates by reference Clause 3 *of ISO 9000:2015(E), Quality management systems-Fundamentals and vocabulary*, (ISO 9000). In addition to incorporating by reference ISO 13485 and Clause 3 of ISO 9000, the QMSR establishes additional requirements and provisions that clarify certain expectations and concepts used in ISO 13485. These additions ensure that the incorporation by reference of ISO 13485 does not create inconsistencies with other applicable FDA requirements.

The legal effect of incorporation by reference of ISO 13485:2016 and ISO 9000:2015 Clause 3 is that the material is treated as if it were published in the Federal Register and Code of Federal Regulations (CFR). This material has the force and effect of law and became effective on February 2, 2026.[2]

The QMSR requirements govern the methods used in, and the facilities and controls used for, the design, manufacture, packaging, labeling, storage, installation, and servicing of all finished devices intended for human use. The requirements in this part are intended to assure that finished devices will be safe and effective and otherwise in compliance with the Federal Food, Drug, and Cosmetic Act. The use of other terminology, such as "safety and performance," in this part does not change this statutory standard or the requirements of this part. Any manufacturer engaged in the design, manufacture, packaging, labeling, storage, installation, or servicing of a finished device must establish and maintain a quality management system that is appropriate for its specific device(s). The QMSR emphasizes that a culture of quality meets regulatory requirements through a set of behaviors, attitudes, activities, and processes.[3]

3. PREMARKET APPROVAL

Premarket approval is the process used by FDA to review and evaluate the safety and effectiveness of Class III medical devices.[4] All Class III devices (with the exception of certain preamendment Class III devices) must obtain premarket approval from FDA before they can be introduced into interstate commerce. Manufacturers are required to submit a PMA application that provides a reasonable assurance that such device is safe and effective for the intended use.

[2] "Medical Devices; Quality System Regulation Amendments" published in the Federal Register on February 2, 2024 (89 FR 7496)
[3] "Medical Devices; Quality System Regulation Amendments" preamble comment 27 – 89 FR 7496 (Feb 2, 2024)
[4] Refer to the definition of Class III device in 21 CFR 860.3

Assuring that only safe and effective devices are distributed is a two-phase process.

Phase 1 - The inherent safety and effectiveness of a device is established during design and development. A quality management system will include proper risk management processes and consideration of such factors as performance requirements, the needs of the user, operational environments, proper selection of components, etc. Assurance that the design will embody the proper degree of safety and effectiveness is obtained through application of an appropriate design and development process requiring design verification and design validation, which includes clinical evaluation and/or laboratory testing.

Phase 2 - Once the design has been determined to be safe and effective, the adequacy of the manufacturing process will determine whether the design can be consistently reproduced without degrading this inherent quality. Risk management must be incorporated throughout product realization[5]. The manufacturing process must be planned to ensure adequacy of the process to meet QMS and product requirements. Processes must be validated, and re-validated after changes, as appropriate (ISO 13485 Clause 7.5). Where deviations from device specifications could occur because of the manufacturing process, process control procedures must be established to include procedures for the monitoring and control of the process parameters and component and device characteristics during production.

In a PMA application, manufacturers are required to include descriptions of the methods used in, and the facilities and controls used for, the design, manufacture, processing, packing, storage, and, where appropriate, installation of the device.

Under the authority of section 515(d)(2)(C) of the FD&C Act, approval of a PMA application for a device can be denied if a manufacturer does not conform with the requirements of 520(f).

4. THE MDR REGULATION (21 CFR Part 803)

The first Medical Device Reporting (MDR) regulation was published as final on December 13, 1984. As a result of changes mandated by the SMDA, and the Medical Device Amendments of 1992, the 1984 MDR regulations (21 CFR Parts 803 & 807) were revised and published again on December 11, 1995 (60 FR 63578). The FDA Modernization Act of 1997 made additional changes and a revised MDR regulation was proposed in May 1998 (63 FR 26129). The final revised MDR regulation was published in the Federal Register on January 26, 2000 (65 FR 4112). This latest version of the MDR regulation includes reporting requirements for manufacturers, user facilities, and importers. MDR reporting for medical device distributors (except importers) was revoked by the FDA Modernization Act of 1997. Distributors are, however, still required to maintain complaint records, per 21 CFR part 803.18(d)(1-3). 21 CFR Part 803 also requires manufacturers of medical devices, including in vitro diagnostic devices, to report to the FDA whenever the manufacturer or importer receives, or otherwise becomes aware of, information that reasonably suggests that one of its marketed devices: (1) may have caused or contributed to a death or serious injury or, (2) has

[5] ISO 13485 Clause 7.1 and FDA's response to preamble comment 19 in 89 FR 7496, 7506 (Feb. 2, 2024)

malfunctioned and the device, or any other device marketed by the manufacturer or importer, would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. NOTE: Importers* (initial distributors) of medical devices are subject to 21 CFR Part 803 (65 FR 4112). The Voluntary Malfunction Summary Reporting (VMSR) program was established in 2018 and permits manufacturers to report certain device malfunction medical device reports (MDRs) in summary form on a quarterly basis. It reflects changes made by Section 227 of the Food and Drug Administration Amendments Act of 2007 and the goals for streamlining malfunction reporting outlined in the commitment letter agreed to by the FDA and industry, and submitted to Congress, as referenced in the Medical Device User Fee Amendments of 2017 (MDUFA IV Commitment Letter). The overarching principles for the VMSR program are described in an August 17, 2018, notification (83 FR 40973).

Per 21 CFR Part 803.3(j) Importer means any person who imports a device into the United States and who furthers the marketing of a device from the original place of manufacture to the person who makes final delivery or sale to the ultimate user, but who does not repackage or otherwise change the container, wrapper, or labeling of the device or device package. If the importer repackages or otherwise changes the container, wrapper, or labeling, they are considered a manufacturer as defined in this section.

21 CFR 820.10(b)(3) clarifies for manufacturers to meet the requirements in ISO 13485 Clause 8.2.3, the manufacturer must notify FDA of complaints that meet the reporting criteria of 21 CFR 803.

5. THE MEDICAL DEVICE TRACKING REQUIREMENTS REGULATION (21 CFR Part 821)

Under the authority of Section 519(e)(1) of the FD&C Act, the agency may issue a written tracking "order" that directs a manufacturer to implement a tracking program that meets the requirements of 21 CFR Part 821. Devices subject to tracking may include those that are permanently implanted or are life-sustaining or life-supporting devices used outside a device user facility as these devices are considered reasonably likely to cause serious adverse health consequences if they fail. The regulation is intended to ensure that, in the event of a recall or safety alert, a tracked device can be traced by the manufacturer, from the device manufacturing facility to the end user or patient. Note that 21 CFR Part 821 does not include a current list of devices to be tracked. Questions regarding the tracking status of a device should be directed to the "PMA, HDE, Presubmission & Device Tracking Lifecycle Team" in CDRH at OPEQSubmissionSupport@fda.hhs.gov.

21 CFR 820.10(b)(2) clarifies that for manufacturers to meet the requirements in ISO 13485 Clause 7.5.9.1., the manufacturer must document procedures for traceability in accordance with 21 CFR 821, if applicable.

6. THE MEDICAL DEVICES; REPORTS OF CORRECTIONS AND REMOVAL REGULATION (21 CFR Part 806)

Provisions in the (SMDA) of 1990 required reports and records of corrections and removals under section 519(g) of the Act (21 U.S.C. 360i(g)). Section 519(g) of the Act was enacted

because Congress was concerned that device manufacturers, distributors, and importers were carrying out product corrections or removals without notifying the FDA or not notifying the agency in a timely fashion. The Corrections and Removal regulation, 21 CFR Part 806, was promulgated to meet these provisions and took effect on May 18, 1998. The regulation initially required manufacturers, distributors, and importers to report promptly to the FDA any corrections or removals of devices being undertaken to reduce risk to health. The Food and Drug Administration Modernization Act (FDAMA) of 1997 amended section 519(g) of the Act (21 U.S.C. 360i(g)) to eliminate the requirement for distributors to report corrections and removals. The revised 21 CFR Part 806 was published in the Federal Register and became effective December 21, 1998 (63 FR 42229). The regulation, 21 CFR Part 806, requires that device manufacturers and importers report promptly to the FDA any correction or removal of a device undertaken: (1) to reduce a risk to health posed by the device; or (2) to remedy a violation of the act caused by a device which may present a risk to health. Device manufacturers and importers are also required to keep records of all corrections and removals, including those not required to be reported to the FDA under Section 519(g)(1)(B) of the Act.

21 CFR 820.10(b)(4) clarifies that for manufacturers to meet the requirements in ISO 13485 Clauses 7.2.3, 8.2.3, and 8.3.3, advisory notices shall be handled in accordance with the requirements of 21 CFR 806.

7. THE REGISTRATION AND LISTING REGULATION (21 CFR Part 807)

The Registration and Listing regulation, 21 CFR Part 807, was promulgated to meet requirements of the Medical Device Amendments of 1976 (42 FR 42526). Owners or operators of establishments that are involved in the production and distribution of medical devices intended for use in the United States are required to register annually with the FDA, and as general rule, establishments required to register with the FDA are also required to list the devices they make and the activities that are performed on those devices. Registration and listing provide the FDA with the location of medical device establishments and the devices manufactured at those establishments.

Who Must Register, List and Pay the Fee | FDA describes the requirements for registration and listing based on the type of activity performed at that establishment, including which types of activities require payment of the establishment registration fee.

8. UNIQUE DEVICE IDENTIFICATION (UDI) SYSTEM (21 CFR PART 801 SUBPART B AND 21 CFR PART 830)

The FDA established the UDI system to adequately identify medical devices sold in the United States, from manufacturing through distribution, under section 519(f) of the FD&C Act. Benefits of the UDI system include, but are not limited to, simplifying the integration of device use; providing for more rapid identification of medical devices with adverse events; providing for more rapid development of solutions to reported problems and efficient resolution of device recalls; and providing better focused and more effective FDA safety communications. In the UDI final rule (78 FR 58785), device labelers (typically manufacturers) are required to: 1) include a UDI, issued under an FDA-accredited issuing agency's UDI system, on device labels, device packages, and in some cases, directly marked on the device; and 2) submit device information to the Global Unique Device Identification

Database (GUDID). AccessGUDID is a searchable database of device information (including, for instance, device identifier and production identifier(s) on the label, device brand name, premarket submission numbers (if applicable/releasable)) available to the public. More information about UDI, including key provisions of the UDI Rule and guidance can be found on FDA's webpage: Unique Device Identification System (UDI System) | FDA

21 CFR 820.10(b)(1) clarifies that for manufacturers to meet the requirements in ISO 13485 Clause 7.5.8, the manufacturer must document a system to assign a unique device identification to the medical device in accordance with 21 CFR 830.

21 CFR 820.35(a)(3) states that manufacturers must record any unique device identifier (UDI) or universal product code (UPC) and any other device identification in addition to meeting the requirements in ISO 13485 Clause 8.2.2.

21 CFR 820.35(b)(2) states that manufacturers must record, at minimum, for servicing activities, any UDI or UPC, and any other device identification in addition to meeting the requirements of ISO 13485 Clause 7.5.4.

21 CFR 820.35(c) states that manufacturers must record the UDI for each medical device batch or batch of medical devices in addition to meeting the requirements of ISO 13485 Clauses 7.5.1, 7.5.8, and 7.5.9.

21 CFR 820.45(a)(1) states that manufacturers must ensure labeling and packaging has been examined for accuracy prior to release or storage where applicable, to include the correct UDI or UPC, or any other device identification(s), in addition to meeting the requirements of ISO 13485 Clause 7.5.1.

9. MEDICAL DEVICE SINGLE AUDIT PROGRAM (MDSAP)

In 2012, the FDA started working on the Medical Device Single Audit Program (MDSAP) with other global regulators within the International Medical Device Regulators Forum (IMDRF). From January 2, 2014, to December 31, 2016, the FDA announced participation within the MDSAP consortium's pilot program (78 FR 68853). On January 1, 2017, the FDA announced participation in the operational phase of MDSAP, which included opening applications for additional auditing organizations beyond the pilot phase auditing organizations (80 FR 78741). Additionally, each regulator within the consortium committed to utilizing the MDSAP audit reports submitted under the program.

The program allows an MDSAP-recognized Auditing Organization to conduct a single regulatory audit of a medical device manufacturer that satisfies the relative requirements of the regulatory authorities participating in the program. An up-to-date list of international partners participating in MDSAP are listed at: https://www.fda.gov/medical-devices/cdrh-international-programs/medical-device-single-audit-program-mdsap.

The FDA utilizes MDSAP audit reports as a substitute for agency surveillance inspections

for manufacturers that volunteer to participate in the MDSAP[6]. MDSAP audit reports submitted by MDSAP Auditing Organizations that include the United States as a jurisdiction are reviewed and classified by the FDA. Manufacturers with activities related to the Electronic Product Radiation Control (EPRC) provisions of the Act continue to be subject to FDA inspections for the EPRC activities. All manufacturers continue to be subject to FDA non-surveillance inspections.

10. FOOD AND DRUG OMNIBUS REFORM ACT OF 2022 (FDORA)

704(a)(4) of the FD&C Act, as revised by the Food and Drug Omnibus Reform Act of 2022 (FDORA)7 gives FDA authority to request (and requires establishments to provide) any records or other information that FDA may inspect under section 704 of the FD&C Act, in advance of or in lieu of inspections of specified establishments. See Attachment B section titled, FDA Records and Other Information Requests Under Section 704(a)(4) of the FD&C Act (Statutorily Authorized RRA).

Under section 524B(a) of the FD&C Act, a person who submits a 510(k), Premarket Approval Application (PMA), Product Development Protocol (PDP), De Novo, or Humanitarian Device Exemption (HDE) submission for a device that meets the definition of a "cyber device," as defined under section 524B(c) of the FD&C Act, is required to submit information to ensure that such cyber device meets the cybersecurity requirements under section 524B(b) of the FD&C Act.

11. CONSOLIDATED APPROPRIATIONS ACT, 2023

On December 29, 2022, the Consolidated Appropriations Act, 2023 was signed into law. Section 3304 of this Act amends section 801(e)(4) of the FD&C Act and directs FDA to provide certification for devices that are not exported from the United States if certain conditions are met. Manufacturers of devices not exported from the United States, as described in section 801(e)(4)(F)(i) of the FD&C Act, may not receive export certificates (i.e., CFGs), but may request a Certificate to Foreign Government for Device Not Exported from the United States (CFG-NE).

12. KEY COMPLIANCE DOCUMENTS

A. Benefit-Risk in Medical Device Product Availability, Compliance, and Enforcement Decisions.

In 2012, the FDA issued the first guidance document describing factors considered in making benefit-risk determinations in certain premarket submissions. The FDA may also consider benefit and risk factors in prioritizing resources for compliance and enforcement efforts to maximize medical device quality and patient safety. The FDA

[6] A 'routine inspection' is synonymous with a 'surveillance inspection' as referred to in this Compliance Program and Types of FDA Inspections | FDA. See also https://www.fda.gov/medical-devices/cdrh-international-affairs/medical-device-single-audit-program-mdsap.

[7] FDORA was enacted as part of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (2022). FDORA sections 3611(b)(1)(A), and 3612(a) included device establishments (in addition to those for drugs) as establishments that are subject to mandatory requests for records or other information under 704(a)(4) (21 U.S.C. 374(a)(4)).

describes the general framework for medical device decision making related to product availability, compliance, and enforcement in its December 2016 guidance document, Factors to Consider Regarding Benefit-Risk in Medical Device Product Availability, Compliance and Enforcement Decisions: Guidance for Industry and Food and Drug Administration Staff.

The FDA may consider benefit-risk factors during the following situations:

- Evaluation of device shortage situations.
- Selection of the appropriate regulatory engagement mechanism following an inspection during which regulatory non-compliance was observed.
- Evaluation of recalls.
- Consideration of petitions for variance from those sections of the QMSR (21 CFR Part 820) for which there were inspectional observations during a PMA pre-approval inspection.

When making medical device product availability, compliance, and enforcement decisions informed by benefit-risk, the FDA may consider relevant, reliable information relating to patient perspectives, including what constitutes meaningful benefit, what constitutes risk, and what options patients are willing to accept, as well as what alternatives are available.

B. Enforcement Policy Related to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

To address critical public health needs during the COVID-19 public health emergency (PHE), the FDA issued numerous enforcement policy guidance documents that were made effective immediately. In addition, as it relates to these guidance documents, on 2/9/2023, the HHS Secretary renewed the COVID-19 public health emergency declaration issued under section 319 of the PHS Act, effective 2/11/2023. The declaration expired at the end of the day on 5/11/2023. On 3/27/2023, FDA finalized two guidances: *Transition Plan for Medical Devices That Fall Within Enforcement Policies Issued During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency* and *Transition Plan for Medical Devices Issued Emergency Use Authorizations (EUAs) Related to Coronavirus Disease 2019 (COVID-19)*. The guidances outline the FDA's general recommendations to transition from certain policies adopted and operations implemented during the COVID-19 pandemic to normal operations. On 11/2/2023, FDA finalized the guidance: Enforcement Policy for Certain Supplements for Approved Premarket Approval (PMA) or Humanitarian Device Exemption (HDE) Submissions. This guidance describes FDA’s general recommendations for limited modifications to devices required to have an approved PMA or HDE to help address manufacturing limitations or supply chain disruptions. It is important for OII and CDRH staff to be aware of the scope and length of applicability of these policies when implementing this compliance program.

PART II - IMPLEMENTATION

1. OBJECTIVES

The goal of this program is to advance and continually improve the quality, safety, and effectiveness of medical devices to meet patient needs.

The goal of FDA inspections of medical device manufacturers is to evaluate if the manufacturer's:

- QMS meets FDA requirements and provides reasonable assurance that devices will be safe and effective
- Risk management and risk-based decision making are effectively used in the QMS

For FDA staff, the objectives of this program are:

- to conduct risk-based inspections of medical device manufacturers and identify manufacturers who are not in compliance with the regulations noted in Part I Background, and
- to bring these manufacturers into compliance through voluntary, advisory, administrative, and/or other regulatory means, as appropriate, or determine the approvability of a PMA based on the manufacturer's ability to produce safe and effective medical devices

2. PROGRAM MANAGEMENT INSTRUCTIONS

A. Priorities for Scheduling Risk-Based Inspections

OII should schedule inspections of device manufacturers utilizing a risk-based methodology with consideration of the following:

(1) PMA preapproval inspections under Medical Device User Fee Amendments (MDUFA). Note: PMAs with expedited review take priority. See Part II Section B.5 PMA Preapproval Inspection.

(2) Compliance follow-up and for-cause inspections

(3) Manufacturers of Class III devices that have never been inspected

(4) Manufacturers of high-risk devices which can be identified by:

(a) Product Codes for implantable, life-sustaining devices or life-supporting devices

(b) Devices with a higher frequency of recalls and MDRs

(c) Newly marketed devices such as recent 510(k) clearances or De Novo classification

(5) PMA postmarket inspections

B. Planning Instructions

(1) This compliance program should be used for risk-based inspections of devices, including PMA preapproval and PMA postmarket inspections.

(2) Decisions regarding the size and composition of the inspection team should consider factors such as the complexity of products manufactured, the type and extent of deficiencies identified on previous inspections, new indicators of risk to patient safety (recalls, consumer complaints, MDR increase), the size of the manufacturer, and the manufacturer's use of novel or new manufacturing processes.

OII may contact CDRH (or CBER if CBER regulated medical device) prior to, or during inspections, to discuss specific technical issues. Additionally, OII may include OII Subject Matter Experts (SMEs) as part of team inspections and may also request CDRH, CDER, or CBER on-site SME participation. The inspection team may also include OII trainees to achieve FDA training objectives.

For combination products, OII will work with the appropriate medical product inspectorates and Centers to determine the need for a team inspection.

(3) Many large manufacturers have several manufacturing facilities located within a division or in more than one division or in a foreign country. Information from previous inspections and/or FDA databases may indicate:

(a) The manufacturer's quality management system (QMS) overlaps across multiple locations (e.g., procedures for a particular QMS requirement such as complaint handling or design and development are the same at different locations), or

(b) The manufacturer has segregated QMS functions across their organization (e.g., complaint handling at one site and design and development at another site), or

(c) The manufacturer has critical manufacturing responsibilities across multiple locations (e.g., manufacturing steps for the same product family at different locations across the same manufacturer).

When one or more of the above criteria apply, the supervisor should contact the appropriate division(s) to determine if additional domestic or foreign sites should be inspected.

(4) Class I Device Manufacturers

Class I manufacturers should not be routinely scheduled for inspection and should receive lowest inspectional priority unless addressed by a special, "for-cause" assignment or when a health hazard is apparent. Use the following link to determine if a device is Class I exempt from QMSR requirements:

http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPCD/classification.cfm

(5) PMA Preapproval Inspection

A PMA preapproval inspection assignment will be issued after the manufacturer has demonstrated in its PMA application that both the design and development and the manufacturing processes have been adequately documented. The assignment will identify the device to be covered and will have a specific reporting due date that must be met for the Agency to meet statutory deadlines for a decision on the application.

The division will be notified electronically of the assignment number and a copy of the assignment memo will be attached to that notification.

The following information will be sent to the appropriate division once the assignment has been entered:

- the PMA manufacturing section,
- inspectional guidance, if any,
- PMA review memos

For foreign site assignments, all applicable PMA documents will be sent via e-mail to the appropriate investigator as soon as an investigator has been selected and the inspection has been scheduled. The investigator may contact the CDRH reviewer if there are any questions regarding the information provided.

Note: Some PMAs may be granted "Expedited Review" status if the device offers a potential for clinically meaningful benefit as compared to the existing alternatives (preventative, diagnostic, or therapeutic), or when the new medical device promises to provide a revolutionary advance over currently available alternative modalities. The granting of "Expedited Review" means that the application would receive priority review before other pending PMAs. Therefore, expedited PMA inspection assignments take a top priority when scheduling PMA preapproval inspections.

(6) PMA Postmarket Inspection

An assignment for a PMA postmarket inspection of manufacturers including contract manufacturers, sterilizers, relabelers, remanufacturers, and/or specification developers will occur approximately eight to twelve months after a PMA or PMA Supplement for new or alternate manufacturing sites has been approved. The assignment will be issued by CDRH with an inspection due date range that is between eight to twelve months after PMA approval.

Note: PMA postmarket inspection assignments will not be issued to designated sterilizer firms that meet certain criteria.

The division will be notified of the assignment number and a copy of the assignment memo will be attached to the notification.

Once an investigator has been selected and the inspection has been scheduled, the

division should notify the PMA postmarket coordinator via email at CDRHPMAPROGRAM@fda.hhs.gov, identifying the investigator that will be conducting the inspection and the estimated start date of the inspection. Copies of any cover letters for any PMA supplements submitted by the manufacturer since the PMA was approved will be sent to the investigator electronically for review prior to the inspection.

Note: Any issues associated with safety and effectiveness of the device should not be assessed during the postmarket inspection; the relevant evidence should be collected and referred to CDRH for further follow-up.

C. Interactions Between Compliance Programs

(1) Interactions between OII and other Centers, including CBER and CDER, must be considered during the planning of inspections involving biologics or drugs. For guidance, see the Intercenter Agreement between the Center for Biologics Evaluation and Research, and the Center for Devices and Radiological Health, dated October 31, 1991.

The interactions with CBER and CDER are summarized as follows:

CBER is designated the lead Center in FDA for regulating in vitro diagnostic (IVD) medical devices intended for screening or confirmatory clinical laboratory testing associated with blood banking practices and other process testing procedures. These IVD products include those required for screening of blood, blood products, human cells, tissues, and cellular and tissue-based products (HCT/Ps), supplemental testing, and related blood banking practices (such as blood typing and compatibility testing) and are licensed under Section 351 of the Public Health Service (PHS) Act. Inspections of IVDs licensed by CBER should be performed in accordance with Compliance Program: Inspection of Licensed In Vitro Diagnostic Devices.

Combination Products:

The lead center for drug-device combination products is determined on a case-by-case basis depending upon which constituent part provides the primary mode of action of the combination product. Specific areas of inspectional coverage are defined in Compliance Program: Inspections of CDER-led or CDRH-led Combination Products, based on whether the manufacturer uses drug or device GMPs as the basis for their QMS.

(2) The interaction between this CP and CPs related to radiation-emitting devices is as follows:

Radiation-emitting medical devices are subject to both Electronic Product Radiation Control (EPRC) requirements (21 CFR Subchapter J) and medical device requirements. Examples of electronic products that are also medical devices include medical lasers, sunlamp products, and x-ray systems. A joint EPRC/medical device inspection covering

the manufacturer's compliance with both sets of requirements may be conducted under this compliance program and the following EPRC compliance programs:

Program #	Compliance Program Title
7386.001	Inspection and Field Testing of Radiation-Emitting Electronic Products
7386.003a	Inspection of Domestic and Foreign Manufacturers of Diagnostic X Ray Equipment

D. Interactions with other Federal Agencies, State and Local Counterparts, and Foreign Regulatory Authorities

Under the Medical Device Single Audit Program (MDSAP), a recognized Auditing Organization is to report a public health threat, fraudulent activity, or counterfeit product to MDSAP regulatory authorities within five working days following the conclusion of an MDSAP audit. Additionally, if the MDSAP audit should reveal any of the above-mentioned conditions, the Auditing Organization must submit the audit report documentation to regulatory authorities for evaluation within 45 calendar days following the audit end date.

CDRH can exchange regulatory information that is publicly available with foreign regulatory counterparts as part of its International Program. The FDA may also share certain kinds of non-public information with FDA counterparts in foreign countries and international organizations, as part of cooperative law enforcement or regulatory activities. To facilitate this type of information sharing, a Confidentiality Commitment must be in place between the FDA and the external party.

PART III - INSPECTIONAL

1. OPERATIONS

A. Risk-based Inspection Strategy

The QMSR requires[8] manufacturers to implement a Quality Management System (QMS) to ensure their products consistently meet applicable customer and regulatory requirements. The QMSR maintains a focus on risk and describes a QMS as a set of linked processes[9]. FDA expects top management to ensure applicable regulatory requirements are met through integrating QMS processes and embracing a culture of quality.[10]

Due to the integration of processes within a QMS, during an inspection, evaluation of one requirement may necessitate the evaluation of other requirements in different areas of the QMS. The risk-based inspection process aligns with the QMSR and evaluates related requirements with a focus on risks to the patient and/or user. To facilitate a focus on risk and to reflect the relationship of QMS processes, the risk-based inspection process organizes the QMSR requirements into 6 QMS Areas and 4 Other Applicable FDA Requirements (OAFRs). See Diagram 1 below.

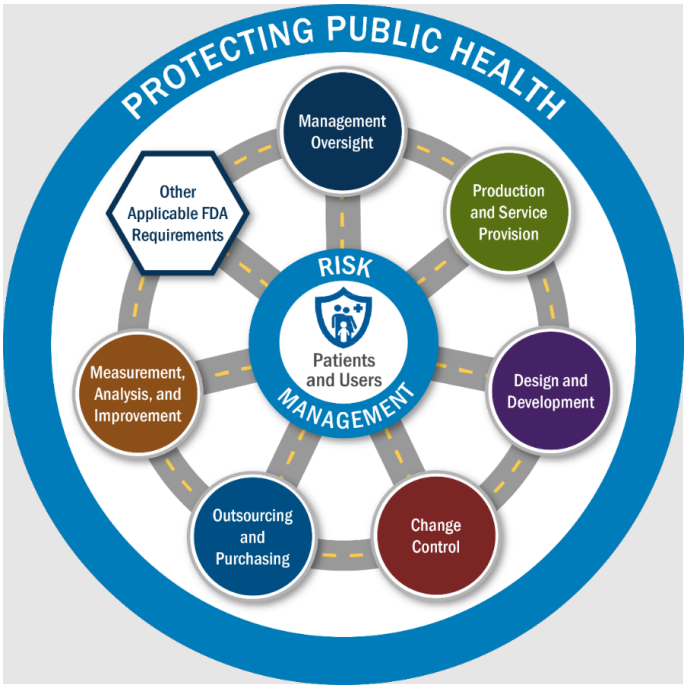

Diagram 1: FDA Medical Device Risk-Based Inspections

[8] 21 CFR 820.10 lists the requirements for a Quality Management System (QMS).
[9] Reference ISO 13485:2016 Clause 0.3 Process approach
[10] FDA's response to QMSR preamble comment 27 discusses top management and culture of quality. It reads in part, "…FDA expects medical device manufacturers, led by individuals with executive responsibilities, to embrace a culture of quality as a key component in ensuring the manufacture of safe and effective medical devices that otherwise comply with the FD&C Act. A culture of quality meets regulatory requirements through a set of behaviors, attitudes, activities, and processes. Top management ensures that applicable requirements are met through integration of QMS processes…" 89 FR 7496, 7506 (Feb. 2, 2024).

Patients and users are the central focus of FDA medical device inspections and are depicted at the center of Diagram 1. The risk management circle surrounding patients and users represents FDA's emphasis on using a manufacturer's risk management documentation to help focus the inspection on risk. The QMSR requirements are represented as six circles, or QMS areas, and one hexagon representing four (4) other applicable FDA requirements (OAFRs). "Roads" connecting the various QMS areas and OAFRs reflect their connection to each other, as well as the flexibility of the inspection process. The outer circle illustrates that the inspection process contributes to accomplishing FDA's mission to protect public health.

Each QMS Area and OAFR is comprised of one or more "element". Each element includes one or more regulatory requirements. Refer to Attachment A for the purpose, elements, and requirements for each QMS Area and OAFR.

B. Risk-based Inspection Process

(1) Overview

During a risk-based inspection, the investigator evaluates requirements according to the applicable inspection model in Figure 1 or 2 and the inspection type in Figure 3. The requirements for at least one element in each QMS Area and OAFR, must be evaluated, as applicable, for inspection types utilizing inspection model 1. For inspection types utilizing inspection model 2, requirements in specific elements must be evaluated, at minimum.

Investigators use critical thinking and consider risk throughout a risk-based inspection and identify product risks that could adversely impact patients and/or users (see section 1.B.(2) below). The identification of product risks includes becoming familiar with the manufacturer's roles (such as specification developer), product(s), and processes to gain an understanding of what requirements are applicable. Investigators review the manufacturer's risk management documentation throughout the inspection to assist with understanding product risks and associated risk controls. Based on this review, and using critical thinking, the investigator selects an element, and evaluates the related requirements, within a QMS Area or OAFR. The QMS areas and OAFRs are not required to be evaluated in a specific order.

Investigators should consider evaluating additional requirements, as applicable, if an inspection reveals objectionable conditions or if evaluation of one requirement necessitates the evaluation of requirements in other areas. Investigators also follow the Investigations Operations Manual (IOM), the inspection assignment, and other FDA procedures when conducting an inspection.

(2) Identifying Risks that can Adversely Impact Patients and/or Users

Investigators must become familiar with what risks are inherent to the device and how those risks are controlled. Risks that could adversely impact patients and/or users are used to evaluate whether a manufacturer is meeting requirements.

A review of multiple sources of data and information, both prior to and during the inspection, is essential to identify product risk(s). An investigator should also use critical

thinking to identify potential risks that could adversely impact patients and/or users. Sources of information include a variety of internal and external databases as well as a facility walkthrough. In addition, the inspection assignment and IOM Chapter 5, Pre-Inspectional Activities, may assist in identifying additional data sources, information, and risks. Examples include:

Prior to the inspection:

- Medical Device Reports (MDRs)
- Reports of Corrections and Removals
- Device Identifier records in the Global Unique Device Identification Database (GUDID)
- Consumer complaints, including allegations or trade complaints
- Total Product Lifecycle (TPLC) report
- Compliance Management System (CMS) for open compliance actions and to identify any entry refusals, reconditioning activities, and/or import sample results

During the inspection:

- Complaints and customer feedback
- Postmarket surveillance
- Risk management documentation
- Monitoring and measurement of product and processes
- Characteristics and trends of processes and product, including opportunities for improvement
- Servicing data

(3) Record Review

Investigators may review records to evaluate whether a manufacturer is meeting FDA requirements and if controls for product risks that could adversely impact patients and/or users have been adequately implemented. Records should be selected based on the identified product risks and the investigator's experience and professional knowledge. In most cases, multiple records should be reviewed to provide the investigator assurance that the manufacturer is meeting requirements and risks are adequately controlled. If requirements are not met, the investigator should collect relevant records to support the observation. When inspectional observations are encountered, refer to Part V Regulatory and current FDA procedures.

(4) Inspection Models

Inspection Model 1

Identify product risks that could adversely impact patients and/or users, select a minimum* of one element to evaluate requirements in each of the following:

QMS Area:	**Change Control**
	Select at least one element
QMS Area:	**Design and Development**
	Select at least one element
QMS Area:	**Management Oversight**
	Select at least one element
QMS Area:	**Measurement, Analysis, and Improvement**
	Select at least one element
QMS Area:	**Outsourcing and Purchasing**
	Select at least one element
QMS Area:	**Production and Service Provision**
	Select at least one element
OAFR:	**Medical Device Reporting**
OAFR:	**Reports of Corrections and Removals**
OAFR:	**Medical Device Tracking Requirements**
OAFR:	**Unique Device Identification**
General:	Registration and Listing Marketing Authorizations Previous 483/compliance issues Other areas as defined in assignment
Note:	Attachment A contains tables of the QMS Areas, OAFRs, Elements, and Requirements. If MDSAP firm, discuss with supervisor before inspection.

*** If inspection reveals objectionable conditions or information cannot be adequately assessed through review of minimum requirements, consider selecting additional elements, as applicable.**

Figure 1: Inspection Model 1

Inspection Model 2

Identify product risks that could adversely impact patients and/or users and evaluate the following elements, at minimum*:

QMS Area: **Change Control**
Element: Product and Process Changes

QMS Area: **Design and Development**
Element: Design and Development Inputs
Element: Design and Development Outputs
Element: Design and Development Review
Element: Design and Development Verification
Element: Design and Development Validation
Element: Design and Development Software Validation
Element: Design and Development Transfer

QMS Area: **Management Oversight**
Element: Management Review
Element: Medical Device File
Element: Planning of Product Realization

QMS Area: **Measurement, Analysis, and Improvement**
Element: Analysis of Data
Element: Control of Nonconforming Product
Element: Complaint Handling
Element: Feedback
Element: Internal Audits
Element: Corrective Action
Element: Preventive Action

QMS Area: **Production and Service Provision**
Element: Validation of Processes for Production and Service Provision
Element: Control of Production and Service Provision
Element: Identification and Traceability
Element: (for sterile products)
Sterile Medical Devices and Validation of Processes for Sterilization and Sterile Barrier Systems

QMS Area: **Outsourcing and Purchasing**
Element: Outsourcing

OAFR: **Medical Device Reporting**
OAFR: **Reports of Corrections and Removals**
OAFR: **Medical Device Tracking Requirements**
OAFR: **Unique Device Identification**

General: Registration and Listing
Marketing Authorizations
Previous 483/compliance issues
Other areas as defined in assignment

Notes: Attachment A contains tables of QMS Areas, OAFRs, Elements, and Requirements.
If MDSAP firm, discuss with supervisor before inspection.

* If inspection reveals objectionable conditions or information cannot be adequately assessed through review of minimum requirements, consider selecting additional elements, as applicable.

Figure 2: Inspection Model 2

C. Inspection Types

The FD&C Act requires FDA to inspect medical device manufacturers according to a risk-based schedule, considering the known safety risks of establishments and risk factors as described in 510(h)(4). FDA medical device inspections are conducted according to the risk-based inspection process described in this compliance program. Inspections may be assigned for a variety of reasons. The types of risk-based inspections and the applicable inspection model are listed in Figure 3.

Inspection Type	Situation	Inspection Model
Non-baseline surveillance PAC 82850A/42850A[11]	• Previous FDA device inspection or MDSAP audit with final classification of NAI or VAI • Not currently enrolled in MDSAP	1
Baseline surveillance PAC 82850B/42850B[9]	• No FDA device inspection or MDSAP audit history • Risk factors indicate a need for evaluation • Not currently enrolled in MDSAP	2
Compliance follow-up PAC 82850C/42850C[9]	Previous FDA device inspection or MDSAP audit resulted in regulatory action, includes monitoring of post-injunction activities	1
For-cause PAC 82850G	Signal, issue, or complaint	1
Specific Product Risk Assignment (SPRA) PAC 82850H	Specific product risk identified	1
PMA preapproval PAC 83850	PMA application	2
PMA postmarket PAC 83850A	Post PMA approval	1

Figure 3: Risk-Based Inspection Types and Associated Inspection Models

Inspection types listed in Figure 3 are further explained in the following paragraphs. If an assignment is for a manufacturer participating in MDSAP, investigators should discuss with

[11] PACs 42850A-C are for inspections of CBER regulated medical devices that are cleared or approved under the FD&C Act's 510(k) or PMA provisions. OII's Office of Biologics Inspectorate (OBI) conducts the inspections of CBER regulated devices under these PACs. OMDRHI staff should not use PACs 42850A-C for inspections of CDRH regulated devices and should not initiate inspections of CBER regulated devices unless requested by OBI.

their supervisor before beginning the inspection.

(1) Non-baseline surveillance inspection

This type of inspection is generally used for manufacturers whose most recent FDA device inspection or MDSAP audit has a final classification of NAI or VAI (see Part V for inspection classification descriptions). Surveillance inspections are not conducted at manufacturer sites actively enrolled in MDSAP.

Investigators should follow inspection model 1 for non-baseline surveillance inspections.

Investigators obtain an understanding of the manufacturer's roles, products and processes and identify product risks that could adversely impact patients and/or users (reference Part III.1.B.(2) above). Investigators use this knowledge to select at least one element from each QMS area and OAFR and evaluate the related requirements during the inspection, as applicable. Investigators review the general items listed in inspection model 1, as applicable, and provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action. Refer to Attachment A.

(2) Baseline surveillance inspection

This type of inspection is for manufacturers with no history of a medical device FDA inspection and/or MDSAP audit or if risk factors indicate a need for baseline surveillance evaluation. Surveillance inspections are not conducted at manufacturers actively enrolled in MDSAP.

Investigators should follow inspection model 2 for baseline surveillance inspections.

Investigators obtain an understanding of the manufacturer's roles, products and processes and identify product risks that could adversely impact patients and/or users (reference Part III.1.B.(2) above). Investigators use this knowledge to evaluate, at minimum, the requirements in the specific elements for each QMS area and each OAFR during the inspection, as applicable. Investigators review the general items listed in inspection model 2, as applicable, and provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action. Refer to Attachment A.

(3) Compliance follow-up inspection

Compliance follow-up inspections are conducted to verify and evaluate actions manufacturers have taken as the result of an FDA regulatory action, including monitoring of post-injunction activities[12].

Investigators should follow inspection model 1 for compliance follow-up inspections, unless otherwise specified by the assignment. Investigators should discuss the

[12] Refer to Regulatory Procedures Manual (RPM) Chapter 6

assignment with compliance staff and follow the assignment instructions.

Risks documented in a prior regulatory action(s) should be considered when choosing which requirements in each QMS Area and OAFR to evaluate. The assignment may outline previous inspection findings, the firm's commitments to corrections, and any additional signal data needing evaluation.

Additionally, during a compliance follow-up inspection:

(a) Verify adequate correction(s) and corrective action(s) have been implemented to address any deficiencies previously identified. If the correction(s) and corrective action(s) were not implemented or were not implemented effectively, verify the deficiencies continue to exist and document findings as appropriate.
(b) Provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action.

MDSAP-participating manufacturers may be inspected as part of a compliance follow-up assignment.

(4) For-cause inspection

For-cause inspections are carried out in response to specific information that raises questions, concerns, or problems associated with medical devices. This information could come to the attention of FDA from any source or quality data signal and includes, but is not limited to, the following:

- Observations made during prior inspections
- Corrections, repairs, removals, recalls, or market withdrawals
- Allegations of regulatory misconduct[13] received by FDA, including consumer complaints
- Medical Device Reports (MDRs)
- UDI on the device and records in the Global Unique Device Identification Database (GUDID)
- Suspicions of fraud
- Follow-ups to Remote Regulatory Assessments (RRAs) (refer to Attachment B)
- MDSAP Regulatory Audit Review
- Potential quality issues identified at another related facility, such as a contract manufacturer, contract sterilizer, or associated site that uses the same quality management system (domestic and foreign)
- Results of a sample analysis
- Notification by another regulatory agency

For-cause inspections are usually created by CDRH, the OMDRHI Immediate Office, OMDRHI Divisions, CBER, or OBI.

Investigators should follow inspection model 1 when conducting for-cause

[13] https://www.fda.gov/medical-devices/medical-device-safety/reporting-allegations-regulatory-misconduct

inspections, unless otherwise specified by the assignment.

For-cause inspections typically identify a product risk in the assignment. This risk and other risks, as applicable, should be used to evaluate requirements in the 6 QMS Areas and 4 OAFRs (or as otherwise specified in the assignment). Investigators review the general items listed in inspection model 1, as applicable, and provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action.
MDSAP-participating manufacturers may be inspected as part of a for-cause assignment.

(5) Specific Product Risk Assignments (SPRA)

Specific product risk assignment requests are initiated by CDRH and may address specific risks associated with one or more product types or operations.

Investigators should follow inspection model 1 for conducting specific product risk inspections, unless otherwise specified by the assignment.

Product risk may be identified in the SPRA assignment. This risk and other risks, as applicable, should be used to evaluate requirements in the 6 QMS areas and 4 OAFRs (or as otherwise specified in the assignment).

If a serious public health risk is encountered during a specific product risk assignment inspection, consult the assignment originator and compliance management.
Investigators review the general items listed in inspection model 1, as applicable, and provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action.

MDSAP participating manufacturers may be inspected as part of a SPRA assignment.

(6) PMA Preapproval or PMA Postmarket assignment

For PMA Preapproval or PMA Postmarket assignments, the investigator should focus on the subject device. The investigator should discuss with their supervisor whether changes should be made to the inspection scope when:

- specific information is discovered during preparation for the assignment which raises questions, concerns, or problems are identified with devices other than the subject device; or
- significant discrepancies are identified during the inspection for processes or devices other than the subject device.

Note: FDA has the authority to inspect component manufacturers, when necessary, but rarely performs inspections of component manufacturers outside of the PMA program. When inspecting a component manufacturer (except foreign component manufacturers), the investigator should issue an FDA 482; however, the investigator should not issue an FDA 483 to the component manufacturer. If issues are identified

during the inspection of the component manufacturer, they should be further investigated at the finished device manufacturer during the PMA inspection. These issues should be handled through the device manufacturer's outsourcing and purchasing activities under ISO 13485 Clauses 4.1.5 and 7.4 and monitoring and measurement of product under ISO 13485 Clause 8.2.6. Any issues identified should be cited on the FDA 483 for the finished device manufacturer during the PMA inspection. If it is decided to conduct an inspection of a component manufacturer as part of the preapproval of a PMA, ***it is not necessary to add the component manufacturer to the postmarket PMA inspection workload planning***.

Coordination among divisions may be necessary if the component manufacturer and finished device manufacturer are not located in the same division.

(a) PMA Preapproval Inspection

Investigators should follow inspection model 2 unless otherwise specified in the assignment for PMA preapproval inspections. For a PMA preapproval inspection that is for a subject device not on the market in the United States, exclude elements marked OAFR in the model (i.e. items listed in part III.D.1-4.).

The inspection should focus on the PMA subject device and follow any instructions in the assignment. Investigators should provide evidence to demonstrate the significance and risk of any deficiencies identified.

If a manufacturer has not conducted activities within a QMS Area, the investigator should still verify requirements for that QMS Area are met. For example, for the Measurement, Analysis, and Improvement (MA&I) QMS Area, the investigator should review that the related processes have been planned and implemented to:

- demonstrate conformity of product;
- ensure conformity of the QMS; and
- maintain the effectiveness of the QMS.

For sterile products, it is important to evaluate the requirements in the element 'Sterile Medical Devices and Validation of Processes for Sterilization and Sterile Barrier Systems' in the QMS Area of Production and Service Provision during a PMA preapproval inspection.

Before initiating the premarket approval inspection, the investigator should review the manufacturing section of the PMA application and any other documents provided by the PMA review office in preparation for the inspection. It is important to ensure that a manufacturer has completed all validation of processes for the PMA product at the time of the inspection.

Inspectional time for the PMA preapproval inspection should be reported under PAC 83850; however, if the inspection also includes coverage of other areas, divide the inspectional hours between the relevant PAC codes, as appropriate.

(b) PMA Postmarket Inspection

Investigators should follow inspection model 1 for conducting PMA postmarket inspections, unless otherwise specified by the assignment, and should focus on the subject device.

The PMA postmarket inspection should also confirm that commitments made by the manufacturer at the time the applications were approved have been completed or are underway in accordance with those commitments. The investigator should provide evidence to demonstrate the significance and risk of any deficiencies identified and to support a possible regulatory action.

Inadequately controlled changes to a newly marketed device often lead to complaints and/or servicing repairs as indicators of performance problems, as well as additional changes in the design and development process, manufacturing process, and/or quality management systems relative to the PMA device. Therefore, the elements of Product and Process Changes and QMS changes are important to evaluate within the QMS Area of Change Control to ensure there are no indications of potential performance problems. To identify product risks that could adversely impact the patient and/or user, reference Part III.1.B.(2) and review the following for the PMA postmarket product:

- Review of any relevant recalls as outlined in IOM Chapter 7
- Review of relevant MDRs,
- Review of feedback and complaints,
- Review of UDI(s) established and uploaded to Global Unique Device Identification Database (GUDID) for data quality
- Review of any significant changes in device specifications or in the manufacturing specifications, focusing on the manufacturer's validation of process activities, and
- Follow up on any previous FDA 483 observations, to include the corrections and corrective actions for the observations and the related QMS processes

Available postmarket information for the PMA device should be reviewed as much as possible as a part of the preparation for the inspection, to facilitate efficient time spent at the facility. Any potential problems identified as a result of the review of postmarket information should be investigated and developed during the inspection. The four other applicable FDA requirements (OAFRs) must be reviewed during the PMA postmarket inspection, as these areas may not have been reviewed during a PMA preapproval inspection.

Inspectional time for the PMA postmarket inspection should be reported under PAC 83850A; however, if the inspection also includes coverage of other areas, divide the inspectional hours between the relevant PAC codes, as appropriate.

(c) Special Instructions Concerning Validation of Processes

At the time of the PMA application, a manufacturer may not have completed all the required validation of processes and, therefore, CDRH may not have conducted a review of this data. It is expected that at the time of the inspection, the manufacturer will have completed validations of all processes requiring validation. Therefore, the investigator should focus on verifying all necessary validation of processes is complete.

At time of preannouncement, the investigator should ask the manufacturer if the required validation of processes related to the PMA application has been completed. If the manufacturer reports not having completed the validations, the inspection should be delayed until such a time as they have. The investigator should notify their supervisor and the assignment point of contact of the delay and of any date by which the manufacturer estimates validation would be completed.

During the inspection, if the investigator finds that validation of processes activities have not been successfully completed by the manufacturer, the investigator should notify their supervisor and the assignment point of contact. The investigator may conclude the inspection without completing review according to the applicable inspection model. Refer to Part V for further guidance on regulatory/administrative follow up.

(d) Special Instructions Concerning Design and Development for PMA Devices

Investigators should ensure the specified design and development elements for the PMA devices are sufficiently reviewed during an inspection.

There are a number of multi-establishment firms that conduct all design activities at a single facility (sometimes referred to as a research and development (R&D) center or a corporate design facility). If the establishment scheduled for inspection is known to be serviced by an R&D center or a corporate facility, an assignment should be generated for the additional location. This relationship may be determined from review of available files for the establishment, review of the agency's Official Establishment Inventory (OEI) databases, direct contact with the review office(s), or other means.

If review of some elements of design and development is not possible at the site of the inspection because the sponsor performs those functions at another site, review the elements performed at the site and determine what other sites are involved and the activities performed at those sites.

For PMA preapproval inspections, the R&D center or the corporate design facility should be inspected regardless of the facility’s inspectional history.

For PMA postmarket inspections, the review office should determine if the R&D center or the corporate design facility has had an inspection within the previous two years. If an inspection was conducted within the previous two years, it will not be necessary to conduct an inspection. If an inspection was not conducted within the previous two years, issue an assignment to the division where the R&D center or the corporate design facility is located, requesting an inspection for the devices listed in the PMA.

Some manufacturers may have their PMA devices designed under contract. These manufacturers must comply with the requirements for using contractors or service suppliers under ISO 13485 Clauses 4.1.5 and 7.4 as well as ensure compliance with ISO 13485 Clauses 7.1 and 7.3. The manufacturer must maintain or have readily accessible copies of the design and development file and associated design and development procedures, documents, and records for any PMA devices that are in production.

Observations relating to design and development placed on the FDA 483 should be limited to the adequacy of the implementation of the procedures and/or controls established by the manufacturer. Any issues related to the adequacy, safety, or efficacy of a particular design should not be placed on the FDA 483. Investigators should discuss any such issues with the review office, collect complete documentation, and include the documentation in the EIR, as applicable.

If the manufacturer has made significant design and development or manufacturing changes to the PMA device that require the submission of a PMA supplement, the investigator should attempt to get CDRH concurrence during the inspection before placing the observation on the FDA 483. When CDRH concurrence cannot be obtained before the completion of the inspection, the observation should not be placed on the FDA 483. Investigators should discuss the potential issue verbally with the manufacturer, collect complete documentation, describe the issue in the EIR, and submit the documentation to CDRH for further review.

(e) Special Instructions for Sterilization Processes

Sterilization processes for PMA devices may be conducted at the device manufacturer or a contract sterilizer. For a sterile product, it is important to evaluate the requirements in the element 'Sterile Medical Devices and Validation of Processes for Sterilization and Sterile Barrier Systems' in the QMS Area of Production and Service Provision during a PMA preapproval inspection, as indicated in Figure 2. The instructions for inspecting sterilization processes are applicable at the following types of facilities:

- device manufacturers that sterilize their own product,
- device manufacturers that use contract sterilizers, and
- contract sterilizers

Many contract sterilizers have a significant number of customers who manufacture

PMA devices. Therefore, inspection assignments for PMA postmarket contract sterilizers are not required to be issued for each PMA product if the facility meets the following criteria:

1. The facility was inspected during the previous two years,
2. The facility was found to be in compliance with 21 CFR 820; and,
3. The same sterilization method was covered as the one identified in the PMA.

For domestic contract sterilizers, an e-mail will be sent to OII requesting confirmation that the criteria outlined above has been met and an inspection is not necessary.

PMA postmarket inspection assignments for contract sterilizers will still occur in situations where the above criteria were not met or in the following situations where:

1. Changes in the sterilization process cannot be verified or checked by reviewing sterilization records at the finished device manufacturer;
2. Information obtained from the manufacturer discloses a possible problem at the contract sterilizer; and/or,
3. Information needs to be verified per assignment.

Note: The inspection strategy described above is only applicable to PMA postmarket inspections of contract sterilizers. CDRH will continue to issue PMA preapproval inspection assignments for contract sterilizers.

(7) Foreign Inspections

Any of the inspection types listed in Figure 3 may be assigned for foreign facilities. A foreign manufacturer's compliance with registration and listing requirements should be reviewed during the inspection. The failure to list devices exported to the United States will subject the medical devices to detention upon entry[14].

Additionally, any special instructions in the inspection assignment must be followed.

Requests for documents should be made as early as possible, including prior to the inspection, to give foreign manufacturers time to conduct or acquire any necessary written or oral translations, and to obtain documents that may be located in U.S. offices. Oral translations, including the identity of the translator and identification of the source document, should be documented in the EIR if that information is utilized in supporting an observation(s).

[14] Several sections of the FD&C Act authorize FDA to detain [medical] devices exported to the United States upon entry for failure to list. These are, FD&C Act sections 502(o) Drugs or devices from nonregistered establishments, 801[Imports and Exports] and 802 [Exports of Certain Unapproved Products]. See too, 21 CFR Part 807.40(a), Establishment Registration and Device Listing for Manufacturers and Initial Importers of Devices.

D. Other Applicable FDA Requirements (OAFRs) (Refer to Attachment A)

Investigators should provide evidence to demonstrate the significance of any deficiencies identified as a result of the review of the OAFRs. Time should be reported under the specific PAC.

(1) Medical Device Reporting (MDR): 21 CFR 803 (PAC 81011)

Evaluate during all risk-based inspections except for PMA Preapproval inspections. Prior to initiating an inspection, the MDR data should be reviewed using the Manufacturer and User Facility Device Experience (MAUDE) database, or by obtaining information from CDRH (or CBER if CBER regulated medical device) regarding the manufacturer's submitted reports. MDR information can also be accessed through the Total Product Lifecycle Reports (TPLC).

When reviewing Medical Device Reporting requirements:

(a) Verify the firm follows their MDR procedures and they are effective in identifying MDR reportable deaths, serious injuries, and malfunctions.
(b) Verify any medical device reports (MDRs) include the unique device identifier (UDI) that appears on the device label, or on the device package, when known.
(c) Manufacturers are allowed to report corrections and removals under 21 CFR 803 or through Radiological Health requirements (as applicable). If during review of MDRs it is found the manufacturer has reported a correction or removal, and claims an exemption from 21 CFR 806, verify the submission and timeliness of the reporting in the record[15].

(2) Reports of Corrections and Removals: 21 CFR 806 (PAC 81850R)

Evaluate during all risk-based inspections except for PMA Preapproval inspections. When reviewing 21 CFR 806 requirements:

(a) Confirm that the manufacturer has implemented the reporting requirements of 21 CFR 806.
(b) Determine whether the manufacturer has initiated any corrections or removals since the previous inspection.
(c) Verify the manufacturer has documented a record for all non-reportable corrections and removals per 21 CFR Part 806.20 and verify the manufacturer is complying with the other record requirements of 21 CFR 806.
(d) Confirm that the manufacturer's justification for not reporting a correction or removal to the FDA is appropriate and that there are no corrections or removals that should have been reported. Note a correction and removal can be reported under the MDR regulation, see MDR paragraph above and footnote 15.
(e) Verify that any correction and removal reports include the UDI that appears on the

[15] 21 CFR 806.10(f) states, "No report of correction or removal is required under this part, if a report of the correction or removal is required and has been submitted under parts 803 or 1004 of this chapter."

device label, or on the device package.

(3) Medical Device Tracking Requirements: 21 CFR 821 (PAC 81850T)

Evaluate during all risk-based inspections where a tracking order was issued except for PMA Preapproval inspections. When reviewing Medical Device Tracking Requirements:

(a) Determine if the firm manufactures or imports a tracked device. Verify the manufacturer has established a written standard operating procedure (SOP) for tracking that complies with the requirements in 21 CFR Part 821.25(c).

(b) Verify that the manufacturer's quality assurance program includes an audit procedure for each device product subject to tracking that complies with the timeframes specified in 21 CFR Part 821.25(c)(3).

(c) Verify that the manufacturer is aware of its obligation to:

i. notify FDA if it permanently discontinues doing business and provide copies of its tracking records to its FDA OII Division Office;
ii. transfer tracking records to a manufacturer purchasing its tracked device(s); and
iii. continue tracking a device the manufacturer stops manufacturing or importing if the manufacturer remains in business, unless another person, affirmatively and in writing, assumes responsibility for continuing the tracking of devices previously distributed.

(d) If the manufacturer's tracked device was purchased from another manufacturer, confirm (where applicable) that the manufacturer has obtained and maintains the prior manufacturer's tracking records or equivalent information.

(e) Review at least one device that was issued a tracking order. To obtain tracking information, refer to "*Medical Device Tracking Guidance for Industry and FDA Staff*" dated March 27, 2014, by accessing Medical Device Tracking | FDA

(f) Verify the device tracking system documents the unique device identifier (UDI) that appears on the device label or on the device package.

(4) Unique Device Identifier (UDI) 21 CFR 830 (PAC 82016)

Evaluate during all risk-based inspections except for PMA preapproval inspections. The Unique Device Identification System final rule (78 FR 58825) requires device labelers (typically, the manufacturer) to include a unique device identifier (UDI) on device labels and packages, except where the rule provides for an exception or alternative and requires submitting device information to the Global Unique Device

Identification Database (GUDID.) The device labeler must also mark the UDI directly on the device if a device is intended to be used more than once and intended to be reprocessed before each use.

When reviewing UDI requirements:

(a) Confirm that the UDI labeling on the device is available in both easily readable, plain text and Automatic Identification and Data Capture (AIDC) technology. In addition, request the manufacturer to confirm the AIDC format is of adequate quality and can be scanned to allow for retrieval of UDI information.
(b) Review the UDI to confirm that the data elements in AccessGUDID - Identify Your Medical Device (specifically, within the Device Identifier (DI) Information, Device Characteristics, Alternative and Additional Identifiers, and Customer Contact sections) match the labeling and UDI information on the device. Ensure that when an AccessGUDID attribute appears in the medical device labeling, the values submitted to the GUDID match the values in the labeling.
(c) If a device has been discontinued from distribution, ensure that the DI Information in AccessGUDID for both the "Commercial Distribution Status" and "Commercial Distribution End Date" fields is updated.
(d) If a manufacturer is claiming applicability of an exception or alternative to UDI requirements, please confirm that the Product Codes are listed on the UDI website, Unique Device Identification System (UDI System).

(e) Review procedures related to labeling and label controls as required in 21 CFR 820.35(c) and 820.45. Ensure that the procedures include the UDI requirements and that the appropriate UDI is included on any labels or labeling and is in conformance with the Medical Device File (MDF).
(f) Verify the UDI is recorded for the medical device or batch of medical devices. Refer to 21 CFR 820.35(c).
(g) Verify complaint-handling procedures include provisions for capturing and documenting any UDI when performing assessment of the firm's complaint investigations. Refer to 21 CFR 820.35(a)(3).
(h) When servicing is applicable, verify that servicing procedures include provisions for documenting in the servicing reports any UDI. Refer to 21 CFR 820.35(b)(2).

E. General Items to review during Inspections

(1) Registration and Listing

Registration and Listing should be reviewed as part of the pre-inspection review for both domestic and foreign inspections. During the inspection, review a sample of device listings to determine whether listings are accurate.

If a manufacturer failed to register or has not registered accurately, this needs to be discussed with management at the manufacturer and documented in the EIR. If the manufacturer is required to list, and has not listed all their devices, or the listings are not accurate, this also needs to be discussed with management at the manufacturer and

documented in the EIR.

(2) Marketing Authorization

Regulated domestic and foreign manufacturers required to register with FDA may also be required to obtain authorization from FDA before introducing or delivering for introduction into interstate commerce for commercial distribution a medical device intended for human use.

FDA clearance or approval is required for many medical devices. The device classification and risk level determine which type of premarket submission is required.

Device manufacturers must submit a premarket notification submission for any device in commercial distribution that is about to be significantly changed or modified where the change or modification could significantly affect the safety or effectiveness of the device, or where there is a major change or modification in the intended use of the device. See 21 CFR 807.81(a)(3).

During an inspection:

(a) Verify that the manufacturer has implemented appropriate controls to ensure that products have received marketing authorization by the FDA before they are released for distribution.

(b) Ensure that changes to the device(s) are evaluated to assess the impact of the change on the marketing authorization.

(c) Review product labels, labeling, marketing materials, company websites, and social media to evaluate whether the marketing and promotion is within the scope of the cleared or approved indications for use and intended uses of the medical device(s) selected for review.

(d) Collect evidence to support an apparent lack of premarket authorization and/or any significant changes or modifications made to a device that appear to require a new premarket authorization.

(e) Include observations related to lack of premarket authorization in the FDA 483 only when concurrence with CDRH has been obtained.

(3) Follow up on previous 483 and/or compliance issues

If the previous inspection resulted in inspectional observations, adequacy of corrections to those observations should be reviewed during the next inspection.
Consider the following factors when verifying the adequacy of corrections:

- The depth and details of investigation performed
- Identification of the potential cause(s)
- Scope of evaluating and implementing corrections needed throughout the entire quality management system
- Corrections addressed deficiencies with product currently in the field, or

appropriate justification is provided.
- Implementation of additional or updated procedures
- Improvement process was followed correctly
- Validation of processes
- Verification and/or validation of effectiveness of corrective action(s)
- Risk management processes and risk-based approaches were considered, as appropriate
- Timeliness of the performed activities of the investigation and implementation of corrections and corrective actions.

(4) Instructions in the Assignment

In addition to inspectional coverage according to the applicable inspection model, for all types of inspection, follow any additional instructions provided in the assignment.

F. Pre-Announcement of Inspections

Refer to IOM Chapter 5 Pre-Inspectional Activities and
Review and Update of Device Establishment Inspection Processes and Standards, Guidance for Industry, June 2020.

G. Requesting Inspection Assistance

Medical device manufacturers may have several manufacturing facilities located across the country, or globe. During an inspection, it may be necessary to request inspectional assistance or follow-up from another division to address risks that are outside the scope of the site being inspected. Investigators should speak to their supervisor if they identify any one of the following instances:

- the inspection finds concerns that may relate to additional locations,
- the manufacturer's quality management system overlaps across multiple firm locations,
- the manufacturer has segregated quality management system functions across their organization, or
- the manufacturer has critical manufacturing responsibilities across multiple locations.

H. Cybersecurity

Cyber devices, as defined in section 524B(c) of the FD&C Act should be considered for review for conformity with Section 524B(b)(2) of the FD&C Act for both domestic and foreign inspections. If the subject device is either a cyber device or is software enabled, the following resources are available to support the investigator before and during an inspection (OPEQCompliance-QualityProgram@fda.hhs.gov and cybermed@fda.hhs.gov). See

Cybersecurity in Medical Devices Frequently Asked Questions (FAQs) | FDA for more information.

When evaluating a manufacturer of a cyber device for compliance with FDA's regulations, note that a cyber device is a device under Section 201(h) of the Act and must comply with all applicable device requirements.

I. Special Instructions Concerning Design and Development

The inspectional authority for review of design and development records is derived from Section 704(e) of the Act. Such authority applies only after the establishment has manufactured the device for which the design has been under development or has taken an action that precludes the argument that the product under development is not a device. Such actions include:

- Submitting to an Institutional Review Board plans for clinical investigation of the device.
- Submitting to FDA a Product Development Protocol (PDP).
- Submitting to FDA an IDE, 510(k), PMA, Humanitarian Device Exemption (HDE) or Premarket Report (PMR).
- Changes to an already marketed device.

FDA has inspectional authority to review design and development records when the device has been placed on the market, or when *any* of the four actions above have occurred.

Review of design and development should cover any design processes performed after June 1, 1997. The manufacturer is not required to retrospectively apply design and development controls to any stages in the design and development process that it completed prior to June 1, 1997, unless changes have been made to the design (including changes in ownership or where the designed device will be manufactured) after June 1, 1997.

If a manufacturer normally designs its own devices but has not initiated any design changes to current devices since June 1, 1997 or does not have a design project underway that is reviewable by FDA given the limitation discussed above, investigators should limit their coverage of the Design and Development QMS Area to a review of the design and development change control procedures that the manufacturer must have documented.

Some manufacturers have their devices designed under contract. These manufacturers must comply with the requirements for using contractors or service suppliers, as found under ISO 13485 Clause 4.1.5 and Clause 7.4. The manufacturer must maintain or have reasonable accessibility to copies of a design and development file for each medical device type or medical device family.

Under § 820.10(c), manufacturers of class II, class III, and certain class I devices, as listed

in 820.10(c) and table 1 to paragraph 820.10(c)(2), must comply with the requirements in Design and Development, Clause 7.3 and its Subclauses in ISO 13485. Class I devices that are required to comply with design and development requirements are:

(1) Devices automated with computer software; and
(2) The devices listed in the following chart:

868.6810	Catheter, Tracheobronchial Suction.
878.4460	Glove, Non-powdered Surgeon's.
880.6760	Restraint, Protective.
892.5650	System, Applicator, Radionuclide, Manual.
892.5740	Source, Radionuclide Teletherapy.

Manufacturers subject to this part include those who perform the function of specification development.

Do not place observations on the FDA-483 that concern the adequacy, safety, or efficacy of a particular design. Observations relating to design and development placed on the FDA-483 should be limited to the adequacy of, and adherence to, the procedures and/or controls established by the manufacturer.

J. Inspection of Radiation-Emitting Devices

Medical devices that emit electronic product radiation (for example, diagnostic x-ray systems and their major components) are subject to both Electronic Product Radiation Control (EPRC) and Medical Device provisions of the FD&C Act. These devices have additional Radiological Health requirements meant to protect the public from unnecessary radiation. Such requirements include affixing certification labeling, verifying safety features, reporting and record keeping, and the continual testing to verify product conformance with applicable Federal Performance Standards promulgated under 21 CFR 1010 – 1050. Risk-based inspections should be performed jointly with EPRC inspections whenever possible.

If Electronic Product Radiation Control (EPRC) requirements apply to the manufacturer being inspected, the investigator should discuss with their supervisor if review of EPRC requirements should be conducted, if not already included in the assignment. EPRC inspections, whether or not in conjunction with a medical device inspection, should only be conducted by individuals with appropriate training and experience. Those not trained to conduct EPRC inspections may participate as part of a team with an EPRC-trained investigator. Review of EPRC requirements must be conducted by staff who have received EPRC training.

A firm may manufacture medical devices that are capable of emitting electronic product radiation. If so, when conducting risk-based inspections, you should also assess the firm’s devices against any applicable standards promulgated under Chapter V, Subchapter C -

Electronic Product Radiation Control of the FD&C Act. Medical device inspection and enforcement activities described in the relevant radiological health compliance programs (for example, CP 7386.003a, Inspection of Domestic and Foreign Manufacturers of Diagnostic X-Ray Equipment) should be adhered to, jointly with this Compliance Program. For joint risk-based/EPRC inspections, the firm should be informed that EPRC requirements will be evaluated during the inspection. This assessment is not a QMS activity and should not be reported as a QMS activity. Instead, report any Radiological Health time under the appropriate Radiological Health PAC.

For Inspection and Field Testing of Radiation-Emitting Electronic Products use CP 7386.001. For Field Compliance Testing of Diagnostic Medical X-Ray Equipment use CP 7386.003.

Device manufacturers subject to existing FDA performance standards (21 CFR Parts 1010 – 1050) should include in their medical device file or batch or lot records those procedures and records demonstrating compliance with the applicable standard, certification (21 CFR Part 1010), and reporting (21 CFR 1002 – 1005).

K. Field Exams

See IOM Chapters 4 and 5 regarding field exams (e.g., sterile device packaging).

If the investigator finds defective packaging during a visual field examination, they should consider collecting a sample and contact their supervisor.

L. Sample Collection

Physical samples should not be routinely collected to support QMS cases. Generally, samples are not necessary to support a warning letter for QMS, MDR, Medical Device Tracking requirements, UDI, and Reports of Correction and Removals violations. An investigator should discuss with their supervisor whether a sample is needed when there is potential for any advisory, administrative, or judicial actions.

(1) Physical Sampling

When considering physical sample collections, the investigator and their supervisor should discuss sampling specifics and coordination with the Winchester Engineering and Analytical Center (WEAC). Reference Part IV Analytical for additional guidance.

(2) Counterfeit Sampling

The investigator should work with their supervisor and the Forensic Chemistry Center (FCC) for guidance on collecting samples for potential counterfeit product.

3. ADDITIONAL CONSIDERATIONS

A. Labeling

Review specific labeling requirements, such as 21 CFR 801 and 21 CFR 809.10, as applicable.

B. Imports

No import field examinations or sample collections are scheduled under this program.

If investigators encounter imported products that appear to be adulterated, misbranded, counterfeit, tampered with or otherwise suspect, attempt to fully identify the product and the source of the imported products. Document in the EIR and contact the Office of Import Operations.

During the inspection, follow-up on nonconforming product offered for import for export under Section 801(d)(3) of the FD&C Act to confirm articles are further processed and exported or destroyed. Refer to IOM Chapter 5 Domestic Follow-up of Import for Export Entries and IOM Chapter 5 Import for Export.

C. Export-Only Firms

Investigators who are assigned inspections of firms that are export-only should perform the inspection according the assignment and confirm that the device(s) are not adulterated other than due to lack of U.S. marketing approval and are not mislabeled other than possessing labeling in the language of the recipient country.

A medical device which would be considered to be adulterated or misbranded, may be exported under Section 801 or 802 of the FD&C Act provided the device is intended solely for export. Reference Exporting Medical Devices | FDA. Although such a device would not meet the requirements of the FD&C Act to be sold domestically for commercial distribution, it may be exported legally if certain requirements are met. Records must clearly demonstrate compliance to the requirements.

See section 5 Guidance for Industry: Exports Under the FDA Export Reform and Enhancement Act of 1996 | FDA

Investigators should determine if the firm has obtained any export certificate(s) for the covered devices. Reference CDRH Export Certificate Validation (CECV) (fda.gov) or CBER's Biologics Export Certification Application and Tracking System (BECATS) Export Certificate.

- If a Certificate of Exportability (COE) Section 801 has been issued, verify subject device is listed, confirm the firm's intentions to operate as export only and discontinue the inspection.
- If no COE Section 801 (COE 801), then proceed to verify all requirements of 801(e)(1).
- If COE Section 802 (COE 802) has been issued, verify subject device is covered and then conduct a risk-based inspection according to inspection model 1.

- If no COE Section 802, then verify 801(e)(1) and 802(f) and proceed with a risk-based inspection according to inspection model 1.

Contact the CDRH Exports team at Exportcert@CDRH.fda.gov (or the CBER Exports team at CBERExportcert@fda.hhs.gov for CBER regulated medical devices) if you have questions.

D. Electronic Records and Electronic Signatures

Follow agency procedures when inspecting electronic records and signatures, reference Part VI.

4. REMARKETED DEVICES

A. Remanufacturers of Used Devices

Remanufacturers are persons who process, condition, renovate, repackage, restore, or do any other act to a finished device that significantly changes the finished device's performance or safety specifications or intended use (21 CFR 820.3(a)).

Remanufacturers are considered to be manufacturers and are subject to all applicable requirements of the QMSR, MDR requirements, Reports of Corrections and Removals requirements, medical device tracking requirements, Unique Device Identification requirements, registration and listing, and premarket approval or clearance requirements. If an establishment disputes its regulatory status, the division should refer the EIR to the Office of Regulatory Programs (ORP) at CDRH (or CBER OCBQ for CBER regulated medical devices) for assistance in interpreting the definition of a remanufacturer.

Any inspection type listed in Figure 3 can be conducted at remanufacturing facilities.

NOTE: For a discussion of the above issues, Remanufacturing of Medical Devices Guidance for Industry, Entities That Perform Servicing or Remanufacturing, and Food and Drug Administration Staff May 2024

Remanufacturing of Medical Devices | FDA

B. Third Party Refurbishers/Reconditioners/Servicers of Used Devices

Third party refurbishers, reconditioners, servicing organizations and "as is" resellers are currently not subject to the requirements of the QMSR.

Definitions located in *Remanufacturing of Medical Devices Guidance for Industry, Entities That Perform Servicing or Remanufacturing, and Food and Drug Administration Staff May 2024*

(1) Recondition/Refurbish/Rebuild: Restores a medical device to the OEM's original specifications comparable to when new. The device is brought to current specifications if the change(s) made to the device do not significantly change the finished device's performance or safety specifications, or intended use. These activities include repair of components, installation of OEM (Original Equipment Manufacturer) provided updates and upgrades, and replacement of worn parts.

(2) Servicing activities: Repair and/or preventive or routine maintenance of one or more parts in a finished device, after distribution, for purposes of returning it to the safety and performance specifications established by the OEM and to meet its original intended use. Servicing excludes activities that significantly change the finished device's safety or performance specifications, or intended use.

Self-described refurbishers, reconditioners, and servicing organizations should only be inspected as directed, or if there is reasonable evidence that the entity is remanufacturing and there is a risk to public health.

C. Reprocessors of Single Use Devices

Third party reprocessors of single use devices are considered to be manufacturers, and are subject to those requirements of the QMSR that apply to the operations they perform. Any inspection type listed in Figure 3 can be conducted at reprocessors of single use devices.

D. Hospital Reprocessors

Hospital reprocessors are to be only inspected when assigned by CDRH. The inspection type and PAC will be included in the assignment.

Reference the FDA guidance Reprocessing Medical Devices in Health Care Settings: Validation Methods and Labeling
Reprocessing is defined as validated processes used to render a medical device, which has been previously used or contaminated, fit for a subsequent single use. These processes are designed to remove soil and contaminants by cleaning and to inactivate microorganisms by disinfection or sterilization.

5. REPORTING

A. Establishment Information Updates

Update establishment information (for example, a firm's legal name and address) in eNSpect prior to the issuance of the FDA 483 as needed. Per the IOM, Official Establishment Inventory (OEI) updates should also be conducted as appropriate.

B. Observation and Discussion Item Reporting Requirements

If there are significant inspectional violations follow the IOM instruction and document as necessary on the Form FDA-483.

For all medical device inspections, the FDA 483 should contain the following additional statements:

> The observations noted in this form FDA 483 are not an exhaustive listing of objectionable conditions. Under the law, your firm is responsible for conducting internal self audits to identify and correct any and all violations of the quality system requirements.

Observations indicating nonconformity with Medical Device Reporting (21 CFR 803), Medical Device Tracking Requirements, (21 CFR 821) and Unique Device Identification (21 CFR 801 subpart B and 21 CFR 830) requirements should be discussed and/or cited per the IOM.

Observations relating to violations of Reports of Corrections and Removals (21 CFR 806) should be discussed with division management prior to including on an FDA-483. Reference Part V Corrections and Removals Regulatory/Administrative Follow-up.

Observations indicating non-compliance with medical device premarket notification requirements and premarket approval (FD&C Act sections 510(k) and 515) require confirmation from CDRH or CBER prior to including on an FDA-483.

If there are observed violations of the QMSR requirements for a PMA device during a PMA preapproval inspection, place them on the FDA 483, even if the medical device has not been placed into interstate commerce yet. The submission of a PMA expresses the applicant's intention to place such a device into interstate commerce once approval is granted and, therefore, observations need to be placed on the FDA 483.

Observations that are not documented on the Form FDA-483 should be discussed with management and described in the Establishment Inspection Report (EIR) with supporting evidence, as appropriate. The most serious deficiencies should be noted on the FDA 483 first.

C. Registration Listing Discrepancies

All discrepancies in registration listing should be discussed with management during the inspection close-out meeting. Report any management responses and commitments related to updating registration and listing information.

D. Annotations and Firm Commitments Related to Inspectional Observations and Discussion Items

Provide the firm with the appropriate inspectional handout which includes information on responding to any observations discussed during the inspection. Refer to the IOM for further instruction.

Annotation of the FDA 483 should occur for all medical device inspections unless the manufacturer declines. If the manufacturer decides to annotate, select the appropriate annotation comment and provide the annotation page when completed. Refer to IOM Chapter 5.

Any commitments made by the firm to verbal observations or discussion items should be captured in the Establishment Inspection Report (EIR).

E. Establishment Inspection Report (EIR) Writing

Refer to the IOM for general reporting requirements for writing an EIR.

F. Profiles

Document device profiles in the reporting system. Refer to the IOM for further instruction.

PART IV – ANALYTICAL

1. ANALYZING LABORATORIES

The division will make all the necessary arrangements for proper handling of samples with the following designated testing facilities:

TYPES OF DEVICES	ANALYZING LABORATORIES
All General Medical Devices	Winchester Engineering and Analytical Center (WEAC) 109 Holton Street Winchester, MA 01890-1197
ANALYSES PERFORMED	**ANALYZING LABORATORIES**
Testing for sterility of finished devices, package integrity, bioburden, endotoxins, and *In Vitro* diagnostics	WEAC – Micro and Chem
Performance Testing	WEAC - Engineering

See PART VI regarding WEAC contact information.

SPECIAL NOTE: For all questions concerning laboratory testing capabilities, contact the WEAC laboratory. See the WEAC SharePoint Site for up-to-date contact information located here: https://fda.sharepoint.com/sites/insideFDA-OC-OCS-OSLES-WEAC

2. ANALYSES TO BE CONDUCTED

Sample collection and analysis will be determined on a case-by-case basis through consideration of inspectional findings, compliance concerns, and scientific capabilities and expertise. Full collaboration between investigations and analytical personnel is essential. See Part III for additional information.

3. METHODOLOGY

A. Testing Finished Device Samples for Sterility

(1) Visually examine each unit to ascertain if its packaging is intact. Report all observed defects by describing the size, type, and location of the defects. Units with defective packaging do not need to be examined for sterility.

(2) Finished device samples are to be tested in accordance with the requirements of current USP methodology for Sterility Tests, and FDA Pharmaceutical Microbiology Manual.

(3) Device samples are to consist of 60 units.

NOTE: Some medical devices may naturally contain antimicrobial properties or be impregnated or packaged with antimicrobials or preservatives that inhibit microbes. Common antimicrobial-containing products include:

- Bandages or gauze pads containing Ag (silver), alcohol, chlorohexidine, honey, beeswax, ointments, or gels.
- Latex gloves.
- Isoprene gloves.

Examine the sample for claims of antimicrobial properties. If antimicrobial ingredients are suspected, collect a sample size of 100 units, rather than 60 units. When the required number of units are not available because of lot size or cost, contact the analyzing lab to discuss a sampling strategy.

See PART VI regarding contact information for WEAC.

(4) Positive subsamples

During incubation, check cultures for growth at regular intervals. If any growth is detected, you should begin qualitative analysis of that growth following subculturing procedures in the *FDA Pharmaceutical Microbiology Manual.*

All isolates from sterility tests must be maintained until the sample disposition authorization is completed in FACTS.

B. Pre-sterilization Microbial Contamination (Bioburden)

Bioburden testing is to be performed in accordance with the guidance provided in *ISO 11737-1, Sterilization of health care products - Microbiological methods - Part I: Estimation of population of microorganisms on products.* The methodology used for estimating the bioburden must be validated. Twenty (20) units are to be tested.

NOTE: the above refenced ISO method must be purchased or one must have a membership to access.

C. Analysis of Packaging Defects

Perform a visual, nondestructive inspection of the package noting the existence and location of any seal or material defects. For sample size and specific instructions WEAC references the DIO Notice #7 and WEAC Medical Device Sampling Guidance Memo for

sampling information. Further testing may be performed using consensus standards such as those identified in the Part VI.1.A.(1) references for the American Society for Testing and Materials (ASTM). Selection of the test will depend on the materials and construction of the package, and on the nature of the noted or suspected problem.

D. Analysis of Endotoxins

Samples will be analyzed using the Bacterial Endotoxins Test found in the current *USP* and the *FDA Pharmaceutical Microbiology Manual*. Ten (10) units are required for endotoxin testing.

E. Antimicrobial Effectiveness Testing

Samples will be analyzed using the Antimicrobial Effectiveness Test found in the current *USP* and *FDA Pharmaceutical Microbiology Manual*. Ten (10) units are required for testing.

PART V - REGULATORY/ADMINISTRATIVE STRATEGY

Voluntary corrections are often the most effective and expedient means by which to protect public health, support the availability of quality medical devices to patients, and maintain compliance. As such, FDA's goal, as part of this regulatory strategy, is to obtain prompt voluntary correction of violations by industry, to reduce risks to public health safety and ensure compliance with regulatory requirements. However, when voluntary corrections to address significant violations are not forthcoming, and/or do not adequately mitigate risk to the user, regulatory action may be taken, when significant violations present a threat to public health. The potential adverse effect of the violations on the safety and intended use of the finished device will be considered when determining the appropriate level of regulatory significance and resulting actions and/or communications with the manufacturer.

If significant violations pertaining to a combination product are observed during an inspection, the Lead Center will coordinate the compliance case review appropriately (see RPM 4-1-6).

CBER-regulated device cases (for non-combination products) are handled by CBER's Office of Compliance and Biologics Quality (OCBQ).

1. REGULATORY SIGNIFICANCE FOR COMPLIANCE DECISIONS

The evidence in its totality, and the associated risk to users and patients, should be assessed when determining regulatory significance. Regulatory significance can be determined by evaluating the inspectional observations and findings (Section A below) and factors considered by compliance (Section B below). By assessing this full complement of information, the following can be determined: the overall criticality of the inspectional findings, how the current inspection should be classified, and what regulatory action(s) are most appropriate. Definitions of classifications are provided in the Classification section below. When OII determines that significant objectionable conditions are found, they will make an initial classification of Official Action Indicated (OAI) and forward to the appropriate center for further review.

A. Inspectional Observations/Findings

When OII is deciding the initial classification to recommend, the initial decision should be based on the seriousness and/or frequency of the deficiencies. The following are examples of such deficiencies.

(1) Situation 1

Overall inspectional findings reveal serious, systemic, and/or repeat deviations from the regulation where there is evidence of an adverse impact from a failure, or other factors that have or may result in significant risk to patients and/or users. Particular attention should be paid to the relationships of requirements. Evidence that supports a significant deficiency, and/or a pattern of deficiencies, within one or more QMS areas

(see below sections relating to OAFRs)
classification. The following list only provides examples and is not all inclusive:

(a) A failure to establish, implement, and/or maintain one or more element(s) of the QMS areas and/or OAFRs. A deficiency could be independent or related to other deficiencies. For example, deficiencies in both purchasing and monitoring and measurement of product can indicate a major deficiency, because adequate control of components and suppliers depends on both activities. If there are problems with one or both processes, product quality may be diminished.

(b) Distribution of nonconforming product(s) that have caused, or may result in, injury or death without effective mitigation, and/or adequate corrective actions by the manufacturer.

(c) Failure to establish, implement, and/or maintain one or more processes for risk management in product realization.

(d) Failure to monitor, measure, analyze, and improve processes that have demonstrated adverse impact to the finished product and/or to patient safety.

(e) Failure to adequately analyze data, and/or failure to utilize current risk information that results in a decision not to proceed with formal investigations and/or corrective actions, leading to unmitigated adverse health consequences or nonconformities. This may result from underestimated risk, outdated risk information, or inadequate risk management used to make decisions (for example, when nonconforming product is detected after delivery or use has started, and the organization fails to take action appropriate to the effects, or potential effects, of the nonconformity.)

(f) Failure to adequately correct the same or similar significant deficiencies from previous inspections(s).

(g) Information gathered through the feedback process and/or postmarket surveillance is not used as potential input(s) into risk management for monitoring and maintaining the product realization or improvement processes.

(h) Failure to control the design and development of product, including not adequately evaluating changes for risk and impact on product(s) prior to implementation.

(i) Failure to ensure processes, including changes, are adequately monitored, controlled and/or evaluated for risk and impact on products prior to implementation.

NOTE: If changes made by a manufacturer appear to warrant the need for new clearance (510(k)) or approval (PMA) and no submissions were made, the inspection should result in an initial OAI classification to CDRH (or CBER-OCBQ if CBER regulated medical device).

(2) Situation 2

When overall inspectional findings reveal less significant deviations that may have minimal or no public health impact, the inspection will typically be classified Voluntary Action Indicated (VAI), for example:

(a) The inspection documents QMSR deficiencies of a quantity and/or type to conclude that there is low probability, considering the relationship between quality management system deficiencies observed and the device and manufacturing processes involved, that the establishment will produce nonconforming and/or defective finished devices. The Form FDA-483, Inspectional Observations, will serve to inform the establishment of any objectionable findings.

(3) Additional Information for PMA Preapproval Inspections

Prior to a PMA preapproval inspection, FDA expects that a PMA device manufacturer's facility will be in compliance with the requirements of the device Quality Management System Regulation (QMSR). The manufacturer should have procedures in place to assure that specifications for the device, components, packaging, and labeling accurately reflect the design, and that the manufacturing process will consistently produce devices that meet the approved design. In cases where QMS deficiencies are identified, any follow-up correspondence related to the deficiencies identified during the PMA preapproval inspection of the PMA devices will be issued by CDRH.

All the considerations listed above for Situation 1 also apply to PMA pre-approval inspections. However, these considerations are specific to the device under PMA review, and OAFRs are not evaluated. CDRH should consider withholding PMA approval if the inspection identifies QMSR deficiencies impacting the device under PMA review that meet the criteria for Situation 1 listed above. Please refer to Section 3(C) of this Part, *Other Communications and Compliance Activities,* for description of actions.

If a PMA preapproval inspection is conducted along with an inspection of commercially marketed devices, and deviations affecting both the PMA device and other devices produced at the facility are identified, CDRH may consider withholding the PMA application and a separate PMA Official Action Indicated (OAI) Letter be issued to the firm. Additionally, other regulatory actions may be recommended to ensure the deviations in the commercially marketed devices are corrected. For information on recommended regulatory actions for these deficiencies in commercially marketed devices, refer to Section 3(B) in this Part, *Regulatory Actions*.

OII should not recommend withholding the PMA application for inspections that meet

the criteria of Situation 2. In cases where it has been determined that the inspection meets the criteria of Situation 2, CDRH will issue a PMA Voluntary Action Indicated (VAI) letter to the device manufacturer outlining the deficiencies noted during the inspection.

B. Factors Considered by Compliance

CDRH will review a case sent by OII along with the below factors listed below to evaluate the overall evidence and make a regulatory decision. Factors to consider include, but are not limited to:

(1) Quality Data

Quality data is related to the quality and/or performance of the device(s) as observed during the current inspection, or otherwise available to FDA. The quality data could include significant quality issues, or signals with the product or across the devices manufactured, as observed by FDA or the manufacturer. Examples could include corrective action, preventive action data sources, recalls, postapproval study data, MDR data, MDSAP audit results, RRA results, or the manufacturer's post market surveillance reports that give insight into the product's performance.

(2) Manufacturer's Inspection & Compliance History

A manufacturer's inspection history may include aspects of their previous compliance history, such as the severity of repetitive issues, correction of deficiencies in a timely manner, and the firm's timely communications to provide evidence of their corrective actions.

Inspection history may also include examples of whether or not a firm has demonstrated that the QMS has been maintained in a state of control.

(3) Manufacturer's Commitments

The manufacturer's responsiveness, including management's oral and written communication during and after the inspection, will be considered when assessing the manufacturer's commitment to address regulatory deficiencies. This includes their willingness and ability to implement corrective actions, and/or put effective mitigations in place to decrease the risk to public health. The manufacturer demonstrates commitment through their ability to identify and execute a thorough corrective action plan, including commitment from top management, and allocation of adequate resources to ensure the firm's quality management system is operating in a state of control. For example, evidence is submitted to:

- Provide an adequate corrective action plan with appropriate depth and scope, and an adequate timeline for corrective actions and/or mitigations.
- Consider retrospective reviews or other mechanisms to identify the impact of deficiencies across the QMS.

- Provide evidence in updates that demonstrates timely progress towards implementation of the corrective action plan, supports any changes or delays to the plan and shows continued commitment to quality. Consider preventive actions that demonstrate a state of control, such as the implementation of consistent processes to identify and correct issues.
- Demonstrate that communications received from the manufacturer are timely, complete, and transparent.

2. CLASSIFICATION

Inspection classifications are based on the public health significance of the deficiencies observed during the inspection and the manufacturer's response, including corrective actions. Classifications are as follows:

No Action Indicated – NAI. No objectionable conditions or practices were observed during the inspection (or the significance of the documented objectionable conditions found does not justify further action).

Voluntary Action Indicated - VAI. Objectional conditions were observed and documented but they do not meet the threshold for regulatory action.

Official Action Indicated - OAI. Objectionable conditions were observed, and supported by documented evidence, and regulatory action (advisory, administrative, or judicial) action is recommended.

The procedures for developing recommendations and determining the need for regulatory action following an inspection are conducted consistent with the established processes.

3. REGULATORY FOLLOW-UP

All reasonable efforts by the manufacturer to achieve voluntary compliance will be considered before initiating regulatory action, if communicated to the FDA in a timely manner after an inspection closes. Corrections and corrective action proposals and plans, including evidence of corrections implemented, should be submitted by the manufacturer in writing within 15 business days after the inspection has been closed, detailing the action(s) taken or to correct the deviations within a specified time frame. Voluntary correction does not preclude the initiation of advisory, administrative, and/or judicial action.

The decision on the type of action to recommend should be based on the seriousness of the documented deficiencies, while taking into consideration the most effective way to protect public health. As listed above in the Regulatory Significance section, Compliance Officers and CDRH or CBER OCBQ (if CBER regulated device) reviewers take into consideration the criticality of inspectional findings and additional factors when determining the best course of action utilizing the Regulatory Procedures Manual (RPM).

A. Considerations in Determining Regulatory Action

Other considerations may cause the overall level of regulatory significance to increase or decrease when CDRH or CBER-OCBQ (if CBER regulated device) evaluates the inspectional outcome and proposed action type. These considerations may include:

(1) Benefit and risk to public health: Consideration of the benefits and risks related to the likelihood of nonconforming product release that may cause patient harm or result in adverse events for a significant and/or at-risk population. CDRH (or CBER OCBQ if CBER regulated device) will determine the health hazard(s) for situations in which there are risks associated with either continued use of, or lack of availability, of the product that would significantly and adversely affect public health. Additionally, if a potential recall or shortage situation exists, OII and CDRH should discuss strategy considerations for products remaining on the market including, but not limited to, the firm's plan for: coming into compliance, risk mitigation, and communication. When appropriate, FDA will use the Factors to Consider Regarding Benefit-Risk in Medical Device Product Availability, Compliance, and Enforcement Decisions | FDA issued on December 27, 2016, to inform decisions related to product availability, compliance, and enforcement.

(2) Emergency provisions, allowances, and exceptions resulting from a public health emergency.

(3) Requirements, exceptions, or priorities resulting from executive orders, across agency programs, or policies, such as, combination products or small business guidance.

(4) Relevant agency initiatives that impact device quality and safety outcomes.

B. Regulatory Actions

(1) Advisory Action

Options

i. Untitled Letter: Untitled letters are used for violations that may not meet the threshold of regulatory significance for a Warning Letter, and request correction of the violations. (See RPM Section 4-2 Untitled Letters).

ii. Warning Letter: The Warning Letter is the Agency's principal means of notifying regulated industry of violations and achieving prompt voluntary correction.

Issuance of all Warning Letters should follow RPM Section 4-1. See below for policy on recidivist Warning Letters.

(2) Regulatory Meeting

A Regulatory Meeting is a meeting requested by FDA management at its discretion, to inform responsible individuals or facilities about how one or more products, practices, processes, or other activities are determined to be in violation of the law.

Regulatory Meetings can be an effective enforcement tool to obtain prompt voluntary compliance and have been used successfully in a variety of different situations, including, but not limited to: (1) in conjunction with another advisory action (e.g., untitled or warning letter), (2) as a follow-up to other advisory actions, or (3) to communicate violations that would not warrant another type of advisory action. Regulatory meetings provide the benefit of a real time, two-way discussion of the violations and the appropriate corrective actions. (See RPM Section 10-3).

(3) Administrative Actions

- Civil Money Penalty: Section 303(f)(1)(B)(i) of the FD&C Act states that civil money penalties shall not apply to QMSR violations "unless such violation constitutes (I) a significant or knowing departure from such requirements, or (II) a risk to public health." Section 303(f)(1)(B)(iii) further stipulates those civil penalties shall not apply to violations of "section 501(a)(2)(A) which involve one or more devices which are not defective." (See RPM Section 5-9-1, item 4).

- Administrative Detention: The intent of administrative detention is to protect the public by preventing distribution or use of violative devices until FDA has had time to consider the appropriate action to take and, where appropriate, to initiate a regulatory action. Prior to invoking an administrative detention, an authorized FDA representative should have reason to believe: (1) the device is misbranded or adulterated; (2) the establishment holding the device is likely to quickly distribute or otherwise dispose of the device; and (3) detention is necessary to prevent use of the device by the public until appropriate regulatory action may be taken by the Agency. (See RPM Section 5-6)
  i. OII should consult with CDRH (or CBER OCBQ if CBER regulated device), and the Office of Chief Counsel (OCC) concerning administrative detention. Concurrence should be given based on a recommendation by both CDRH and OCC staff.
  ii. CDRH should consider immediately recommending seizure of the detained devices to assure continued control of the violative device after the 20/30 days of administrative detention expiration.

- Citations: A citation should be recommended, if appropriate, as stated in the RPM Section 5-1.

- 518 (e)Recall Authority: If the FDA believes that prompt removal of a violative device from channels of commerce is necessary per Section 518(e) of the Act, it should proceed in accordance with the requirements of 21 CFR Part 806 and the established recall procedures found in Chapter 7 of the RPM and 21 CFR Part 7 (Enforcement Policy), Subpart C (Recalls). In the event of serious adverse health consequences or a death, CDRH may order a firm to discontinue further distribution and advise customers of the problem and may subsequently order the recall of a device to the user level in accordance with Section 518(e) of the Act. Refer to Section 7-5-3 in RPM.

- 518 (a) Notification Order
- 518 (b) Repair, Replacement or Refund Order

(4) Judicial Actions

(a) Seizure: A seizure is an action that is intended to take quick control over the violative product and put it under the possession or custody of the court. (See Section 304 of the Act and RPM Chapter 6-1)

(b) Injunction: If an establishment has a continuing pattern of significant deviations, despite past warnings, an injunction will usually be the recommended action of choice. If a serious health hazard exists, the recommendation should include a request for a temporary restraining order (TRO) to prevent the distribution of devices that have been manufactured under the violative conditions documented by the inspection report. (See Section 302 of the Act and RPM Section 6-2.)

(c) Prosecution: The criteria for consideration of prosecution of individuals in violation of applicable requirements is described in RPM Section 6-5.

C. Other Communications and Compliance Activities

(a) PMA approval actions: FDA has the authority to withhold approval of the PMA application for a device application under review by CDRH.

i. PMA Official Action Indicated (OAI) Letter: If the criteria of Situation 1 is met, CDRH will issue a PMA OAI Letter to the device manufacturer, outlining the deficiencies identified during the inspection. The PMA will remain on hold, and approval of the application will be pending the resolution of QMSR deficiencies, often requiring a re-inspection.

ii. PMA Voluntary Action Indicated (VAI) Letter: If the criteria for Situation 2 is met, CDRH will issue a PMA Voluntary Action Indicated (VAI) letter to the device manufacturer outlining the deficiencies noted during the inspection.

iii. PMA preapproval inspection that also covers commercially-marketed devices: When a PMA preapproval inspection identifies deviations affecting commercially-marketed devices, regulatory actions may be taken on the commercially-marketed devices. In such cases, a copy of the regulatory action should be sent to the PMA pre-approval team. A separate PMA OAI Letter may be issued to the manufacturer detailing the deviations related to the PMA devices.

(b) Compliance actions and communications resulting from Agency evaluation of Regulatory Audit Reports (RARs) submitted by recognized third-party Auditing Organizations under the Medical Device Single Audit Program (MDSAP): See Medical Device Single Audit Program (MDSAP) | FDA for more information or contact MDSAP@fda.hhs.gov with questions.

(c) Engagement with the manufacturer in other written or verbal communications as deemed necessary by the Agency, with or without an inspection, to address potential safety issues or promote voluntary

corrective actions.

D. Violative Compliance Follow-Up Inspections

After issuance of a Warning Letter, the next inspection should be a compliance follow up inspection to determine whether corrective actions have been implemented and/or whether significant violations continue. Refer to Part III for compliance follow up inspection coverage. When investigators identify the same or additional conditions that meet the criteria for OAI classification, CDRH should consider subsequent enforcement actions, such as seizure, injunction, prosecution, or civil penalties. During compliance follow-up inspections, OII works closely with the Compliance Officer to assure that appropriate coverage is provided and that deviations are properly documented.

(1) The Recidivist Policy -- Enforcement Strategy for Establishments with Repeated Violative Inspections

(a) Some establishments have a high rate of recidivism. They have repeated occurrences of correcting violative conditions in response to a Warning Letter or other advisory or administrative action and usually maintain those corrections long enough to result in a follow-up inspection with no subsequent compliance action. When FDA next inspects the organization (sometimes, as a follow-up to a recall), the investigator identifies similar conditions that again meet the criteria of OAI classification. This tendency toward recidivism is often due to the failure of the organization to effectively implement and maintain a quality management system.

(b) When dealing with another violative inspection for such an organization, CDRH (or CBER OCBQ if CBER regulated device) should consider using the following strategy:

i. Issue a Warning Letter that follows the Recidivist Warning Letter approved template. This Recidivist Warning Letter requests the manufacturer to submit to the Center (for up to two years if the Center believes that it is necessary) an annual certification by an outside expert consultant stating that it has conducted a complete audit of the establishment's quality management system relative to the requirements of the Quality Management System Regulation. The manufacturer should submit a copy of the consultant's report and certification by the establishment's CEO stating that they personally have received and reviewed the consultant's report and that the establishment has made, or taken, all corrections and corrective actions identified in the report. To keep the process on track, schedules, milestones, update reports and other similar activities should be established between the firm and FDA, or by the firm after issuance of the Recidivist Warning Letter.

ii. The Center has the option of limiting the review of the certification only to the extent necessary to confirm that the consultant and the establishment have met the requirements set forth in the Recidivist Warning Letter. The

Center may perform a technical evaluation of the consultant's report by the appropriate Division at CDRH (or CBER OCBQ if CBER regulated device). There is no obligation to send comments to the organization regarding the adequacy of the consultant's report, or the organization's corrections.

iii. Follow-up inspections will normally be conducted after the organization certifies that it has completed all corrections and corrective actions to the Warning Letter violations.

iv. If the follow-up inspection indicates that the corrections and corrective actions are satisfactory, the Center should remind the organization that it should continue to submit to the Center in accordance with the schedule specified in the Recidivist Warning Letter, copies of the audit results and certification by an outside expert consultant. This certification should state it has conducted an updated audit; has certification by the top management that any corrections and corrective actions noted to be necessary by the consultant have been made; and remains in compliance with the requirements of the Quality Management System Regulation.

(c) If conditions identified by the immediate follow-up inspection or subsequent inspections meet the criteria of OAI classification, the Center should consider administrative or judicial action.

(d) If the evidence indicates that the consultant's or organization's certifications are fraudulent, the Center is encouraged to advise and seek assistance from the Office of Criminal Investigations. When there is clear evidence that the organization falsified its status report to the Center, the Agency should initiate appropriate action under 18 USC 1001.

E. Facilitating Review of Regulatory Recommendations for Judicial Actions

It is recommended that OII work with CDRH (or CBER-OCBQ if CBER regulated device) during the inspection to review inspectional findings and discuss potential observations, to facilitate awareness of the current situation.

F. Deciding Responsibility When Taking Regulatory Action - Contract Sterilizers, Contract Device Manufacturers, and Finished Device Manufacturers

(1) The following is provided as instruction for deciding which party is to be held responsible when a finished device manufacturer uses a contract sterilizer to perform terminal sterilization on its devices or uses a contract device manufacturer.

(a) Contract sterilization and contract manufacturing are considered an extension of the finished device manufacturer's process. The finished device manufacturer is ultimately responsible for assuring that validations, operations, process controls, quality assurance checks, etc., are appropriate, adequately documented, and performed correctly.

(b) Contract sterilizers and contract manufacturers of finished devices are considered manufacturers for the purpose of applying the Quality Management System Regulation in that they meet the definitions as described in 21 CFR § 820.3(a) ("finished device") and 21 CFR § 820.3(b) ("manufacturer"). Contract sterilizers and contract manufacturers of finished devices are subject to those parts of the Quality Management System Regulation that apply to the operations that are performed.

(c) The finished device manufacturer bears overall responsibility for the safety and effectiveness of the finished device and must control all contractors under as specified in the QMSR requirements. However, a contract sterilizer/contract manufacturer of finished devices and the finished device manufacturer are all legally responsible for compliance with the Quality Management System Regulation and for assuring the safety and effectiveness of the finished device.

(d) For contract sterilization, the written agreement between the manufacturer and contract sterilizer required by 21 CFR 801.150(e), may be referenced to determine how the parties have defined their respective responsibilities. For other contract manufacturers, written agreements may be referenced to determine how the parties have defined their activities and respective responsibilities.

(2) When deviations are observed, proposed regulatory actions should reflect and identify the shared responsibilities between the contractor and finished device manufacturer. In some situations, it may be appropriate to initiate regulatory action against both the contractor and the device manufacturer.

(a) Appropriate action should be considered against the contract sterilizer or contract manufacturer of finished devices in areas for which either party has the prime responsibility under any written agreement. It may be necessary to inspect more than one customer to collect supporting documentation and evidence to demonstrate the contractor does not appear to have adequate controls.

(b) When an inspection of a contractor finds violations in areas that are the responsibility of the finished device manufacturer (such as validation, biological indicators, package seal testing, etc.), these deviations are reported to the FDA home division of the finished device manufacturer. Regulatory action consistent with the action of choice for the contractor should be considered for the finished device manufacturer.

(c) Because the finished device manufacturer is ultimately responsible for the safety and effectiveness of the device and, therefore, the contractor's activities, serious deficiencies found at a contractor's establishment should lead to consideration of regulatory action against the finished device manufacturer. Copies of appropriately redacted Warning Letters issued to a contract sterilizer or contract

manufacturer of finished devices should be sent to the finished device manufacturer. A copy should also be sent to the FDA home division of the finished device manufacturer. These documents should be used as a basis for the next scheduled inspection of the finished device manufacturer.

(d) When a possible health hazard situation exists due to the contractor's operation, or an administrative or legal action is contemplated against a contract sterilizer or contract manufacturer of finished devices, the FDA home division(s) should schedule a for-cause inspection(s) at all affected device manufacturers utilizing that contractor.

G. Violative Devices Sold to Government Agencies

It is agency policy to treat devices sold to the federal government in the same manner as devices sold to commercial accounts. Consequently, when FDA recommends against acceptance of a device by a government agency because that device, or its manufacturer, is in violation of the FD&C Act, FDA should also recommend appropriate regulatory/ against the same or similar device sold to commercial accounts.

If an establishment has shipped a violative device to a government agency, appropriate regulatory action consistent with the nature of the violation(s) may be taken even though there have been no shipments to commercial customers. Formal regulatory action in connection with a violative shipment may not be necessary in some cases. For example, the establishment promptly corrects the violative condition, and the Agency would not require further action if the matter involved a device shipped to a non-government customer. However, where corrections are not made, or cannot be made, promptly, the main concern is preventing the subsequent shipment of the device to another customer. When the device has been shipped solely to a government agency and is under control of that agency and there is no threat to the public, CDRH will notify the Office of Operations Regulatory Business Informatics Branch (RBIB) staff and the RBIB should ascertain the intention of the agency holding the goods (for example, determining whether the agency will return or destroy the goods; whether it will request FDA to initiate seizure, etc.). If the procuring agency requests FDA action, RBIB staff will refer the matter to the CDRH Establishment Assessment Team responsible for its consideration of an appropriate recommendation. Questions on this subject can be directed to gwqap@fda.hhs.gov.

Refer to RPM 4-1-2 for "Warning Letters to Government Agencies" for additional information.

4. OTHER APPLICABLE FDA REGULATIONS (OAFR):

Regulatory significance should be considered when evaluating potential actions relating to the Other Applicable FDA Regulations (OAFRs) covered during an inspection.

A. Medical Device Reporting (MDR)

CDRH should consider an action when any of the following 21 CFR Part 803 MDR violations were found during the inspection along with other deficiencies. This list only provides examples and is not all-inclusive:

- Firm fails to report, within five workdays, after becoming aware that a reportable MDR-event necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health.
- Firm fails to submit an MDR death report.
- Firm fails to submit multiple MDR serious injury reports.
- Firm fails to submit multiple MDR malfunction reports.
- Firm fails to develop, maintain, and implement written MDR procedures.

All failures to comply with MDR should be listed on the FDA-483. See Questions and Answers about eMDR - Electronic Medical Device Reporting - Guidance for Industry, User Facilities and FDA Staff | FDA for more information.

B. Medical Device Tracking Requirements

CDRH should consider an action when any of the following 21 CFR Part 821 tracking violations were found during the inspection along with other deficiencies. This list only provides examples and is not all-inclusive:

- Manufacturer distributes tracked device and does not have a tracking system.
- Manufacturer does not have written standard operating procedures for collection, maintenance, and auditing of the data for its tracked device(s).
- Manufacturer's tracking system is ineffective in locating tracked devices during recall/notification.
- Manufacturer does not perform audits of its medical device tracking system.

All failures to comply with the tracking regulation should be listed on the FDA-483. See Medical Device Tracking | FDA for further information.

C. Reports of Corrections and Removals

CDRH should consider an action for Corrections and Removals regulation violation(s) found during an inspection along with other deficiencies, while also considering the

firm's response to the 21 CFR Part 806 deficiencies. This is only an example and is not all-inclusive:

- Manufacturer fails to submit a Corrections and Removals report to OII after its initiation of a medical device correction or removal action which meets the definitions of a Class I or II recall situation, as determined by the FDA, along with other deficiencies.

When the manufacturer has already received a Warning Letter for Reports of Corrections and Removals violations and still fails to comply with the Corrections and Removals regulation along with other deficiencies, then the Center should consider recommending an administrative or judicial action.

All failures to comply with the Reports of Corrections and Removals regulation should be listed on the FDA-483 once the investigator has confirmed with the OMDRHI Risk Mitigation and Response Branch Recall Coordinator whether the situation would likely be classified as a Class I or II recall.

D. Unique Device Identification (UDI)

CDRH should consider an action when any of the following UDI violation(s) were disclosed during the inspection. This list only provides examples and is not all-inclusive:

- Manufacturer fails to ensure that the label of every medical device required to bear a UDI, pursuant to 21 CFR 801.20, contains a UDI.
- Manufacturer fails to provide required information to Global Unique Device Identification Database (GUDID) pursuant to 21 CFR 830.300.

When the firm has already received a Warning Letter for UDI violations and still fails to comply with the UDI regulation, then the Center should consider recommending an administrative or judicial action.

See UDI Rule and Guidance's, Training, Resources, and Dockets | FDA for more information.

5. REGISTRATION AND LISTING

Regulatory significance should be considered when evaluating potential actions relating to registration and listing.

Chapter 4 of the RPM states agency policy is that Warning Letters should only be issued for violations of regulatory significance. Generally, 21 CFR Part 807 registration and listing violations, as a sole finding, should not be the basis of a Warning Letter.

However, when those violations are found in combination with other deficiencies, they should

be included on the Warning Letter, after CDRH (or CBER OCBQ if CBER regulated device) concurrence.

6. CYBERSECURITY

Regulatory significance should be considered when evaluating potential actions relating to cybersecurity.
CDRH should consider an action when the following have occurred for cyber devices, as defined in section 524B(c) of the FD&C Act:

- Manufacturer failed to comply with any requirement under section 524B(b)(2) for cyber devices that were submitted after 3/29/2023. A failure to comply with any requirement under section 524B(b)(2) is considered a prohibited act under section 301(q) of the FD&C Act.
- From the QMSR perspective to the extent that compliance with 21 CFR 820 involves compliance with certain cybersecurity requirements, a failure to comply with 21 CFR 820 could be considered for action if it meets Situation 1 as described in Section 1.A.(1) of this Part.

See *Cybersecurity in Medical Devices Frequently Asked Questions (FAQs) | FDA* for more information.

7. RADIATION EMITTING DEVICE

Refer to Part V in Compliance Programs found at Center for Devices and Radiological Health (CDRH) Compliance Programs for instruction on regulatory actions related to radiation emitting devices.

8. IMPORTS

When review of inspectional findings reveals conditions or practices warranting Detention Without Physical Examination (DWPE), CDRH (or CBER if CBER regulated device) should submit a recommendation to Office of Import Operations (OIO) Import Compliance Branch that the articles offered for import from such firm be subject to DWPE.

Recommendations for addition to DWPE based on establishment inspections follow the instruction in Regulatory Procedures Manual (RPM), Chapter 9-8-12, "RECOMMENDATIONS BASED ON ESTABLISHMENT INSPECTION". Violations may include deviations from Good Manufacturing Practices (GMPs), insanitary conditions, or other practices that may cause articles to be misbranded, adulterated, or otherwise in violation of the FD&C Act per Section 801(a). Import Alert 89-04 (IA 89- 04) "Detention Without Physical Examination of Devices from Firms that Have not met Device Quality System Requirements". Additionally, if a foreign establishment or foreign government refuses a foreign inspection, the firm and its products may be subject to DWPE and could be added to Import Alert 89-16 (IA 89-16),"Detention Without Physical Examination of Products from Medical Device Firms Refusing FDA Foreign Establishment Inspection".

To remove a manufacturer's product from an import alert, information should be provided to the Agency to adequately demonstrate that the firm has resolved the condition that gave rise to the appearance of the violation. Manufacturers should provide adequate documentation (evidence) to the Agency to establish a higher level of confidence to ensure future entries will be in compliance with the Federal Food Drug and Cosmetic Act (FD&C Act). General requirements for removal from DWPE can be found in the FDA's Regulatory Procedure Manual, Chapter 9, Subchapter: Detention Without Physical Examination (DWPE). Additionally, the "Guidance" section within an import alert may provide specific requirements and contact information.

For more information visit: Removal from Import Alert | FDA.

Visit Import for Export Overview | FDA for an overview of the import for export (IFE) provisions of the FD&C Act section 801(d)(3). IFE allows for the importation of a product that is unapproved or otherwise does not comply with FDA laws and regulations if it is coming into the U.S. for further processing and ultimately exported out of the U.S.

9. EXPORTS

When violations meet the criteria for OAI classification for those unapproved devices exported under Section 802 of the FD&C Act, note that fact in the Warning Letter. The issuing office should submit a copy of the Warning Letter to CDRH, Office of Product Evaluation and Quality (OPEQ), Office of Regulatory Policy (ORP), Exports Team (or CBER OCBQ for CBER regulated devices) with a recommendation to rescind all current or unexpired certificates of export.

PART VI - REFERENCES AND PROGRAM CONTACTS

1. APPLICABLE REFERENCES

Copies of CDRH QMS publications and other FDA-guidance documents are available from the Division of Industry and Consumer Education (DICE), Telephone: 800-638-2041 or email at: DICE@fda.hhs.gov. Many of these publications are also available in the CDRH Good Guidance Practices (GGP) Database.

A. Sterilization References

The following sources may be referenced for further guidance regarding sterilization processes.

(1) Food and Drug Administration

(a) Submission and Review of Sterility Information in Premarket Notification (510(k)) Submissions for Devices Labeled as Sterile, dated January 21, 2016
https://www.fda.gov/media/74445/download.

(b) A searchable database of FDA-recognized standards is available at: http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfstandards/search.cfm. A list of FDA-recognized standards related to sterilization of medical devices can be obtained by searching on the category "Sterility."

(2) United States Pharmacopeia (USP)/National Formulary (NF), current edition: http://www.usp.orghttp://www.uspnf.com (USP/NF Online)

<61> Microbial Limit Tests
<71> Sterility Tests
<85> Bacterial Endotoxins Test (LAL)
<151> Pyrogen Test (USP Rabbit Test)
<161> Transfusion and Infusion Assemblies and Similar Medical Devices
<1211> Sterilization and Sterility Assurance of Compendial Articles

2. PROGRAM CONTACTS

A. OII Contacts

(1) For questions regarding inspectional requirements for CDRH regulated devices and/or technical assistance, refer to the following:

Operations Staff by email:
OII-DEVICES-INSPECTION-POC@fda.hhs.gov

(2) For questions regarding inspectional requirements for CBER regulated devices and/or technical assistance, refer to the following:

Office of Biological Inspectorate (OBI) Staff by email:
OIIBIBiologicsInspectionPOC@fda.hhs.gov.

(3) For questions regarding database helpdesk resources, refer to the following:

Contact ERIC Helpdesk

ERIC@fda.hhs.gov or

(301) 827-ERIC (3742)

(4) For questions regarding sampling of devices, testing, and laboratory capabilities:

Contact the WEAC SharePoint site for up-to date contact information located here:

https://fda.sharepoint.com/sites/insideFDA-OC-OCS-OSLES-WEAC

B. CDRH Contacts

Refer to the Office of Product Evaluation and Quality (OPEQ) Organizational Chart to identify the office that is responsible for the type of device for which you have a question or need guidance, including the interpretation and applicability of the device QMSR regulation and GMP exemptions.

Refer to the CDRH "Who's the Lead" list of internal contacts for staff to use when trying to get assistance on a specific topic.

(5) For questions regarding MDR Regulation Interpretation and Policy Questions refer to the following:
MDR Team
Division of Regulatory Programs 3
Office of Regulatory Programs
MDRTHelpdesk@fda.hhs.gov

For information related to PMA guidance refer to the following:

https://www.fda.gov/medical-devices/premarket-approval-pma/pma-guidance-documents

Recommendations are electronically submitted to CDRH. Questions can be directed to:

FDA Regulatory Inspections and Audits Team Inspections Contact: CDRHInspections@fda.hhs.gov

Medical Device Single Audit Program Contact: MDSAP@fdas.hhs.gov

For questions regarding Medical Device Tracking refer to the following:

TrackedDevicesMailbox@fda.hhs.gov

For questions regarding the reprocessing of single-use devices refer to the following:

OPEQCompliance-QualityProgram@fda.hhs.gov

For questions regarding compliance of medical device software, quality system software, cybersecurity, electronic records or electronic signatures, or production/manufacturing equipment software refer to the following:

OPEQCompliance-QualityProgram@fda.hhs.gov

C. CBER Contacts

For CBER regulated devices questions and guidance refer to CBER's Office of Compliance and Biologics Quality .

D. COMSTAT

Questions **regarding COMSTAT (Compliance Status Information System)**: Email: GWQAP@fda.hhs.gov

3. FDA WEB SITES

E. FDA

Home Page: http://www.fda.gov

F. OII

Home Page: https://www.fda.gov/about-fda/fda-organization/office-inspections-and-investigations

G. OII Office of Medical Device and Radiological Health Inspectorate (OMDRHI)

Home Page:

Office of Medical Device and Radiological Health Inspectorate (OMDRHI) | FDA

H. CDRH

Home Page: https://www.fda.gov/medical-devices

I. Registration and Listing

Who Must Register, List and Pay the Fee | FDA

J. Medical Device Reporting (MDR)

Medical Device Reporting (MDR): How to Report Medical Device Problems | FDA

About Manufacturer and User Facility Device Experience (MAUDE) Database | FDA

K. MedWatch

http://www.fda.gov/medwatch

https://www.fda.gov/media/133177/download (Instructions for completing MedWatch Form 3500A)

L. Medical Device Tracking

https://www.fda.gov/medical-devices/postmarket-requirements-devices/medical-device-tracking

M. Recalls, Corrections and Removals

https://www.fda.gov/medical-devices/postmarket-requirements-devices/recalls-corrections-and-removals-devices

N. FDA Recognized Standards

http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfstandards/search.cfm

NOTE: A list of FDA-recognized standards related to sterilization of medical devices can be obtained by searching on the above FDA Recognized Standards link under the category "Sterility."

4. ACRONYMS

AIDC – Automatic Identification and Data Capture
BECATS – CBER's Biologics Export Certification Application and Tracking System
BIMO – Bioresearch Monitoring

CBER – Center for Biologics Evaluation and Research
CDRH – Center for Devices and Radiological Health
CECV – CDRH Export Certificate Validation
COE – Certificate of Exportability
EIR – Establishment Inspection Report
EPRC – Electronic Product Radiation Control
FCC – Forensic Chemistry Center
FD&C Act – Federal Food, Drug, and Cosmetic Act
FDA – U.S. Food and Drug Administration
FDARA – FDA Reauthorization Act of 2017
FDORA – Food and Drug Omnibus Reform Act of 2022
GUDID – Global Unique Device Identification Database
HDE – Humanitarian Device Exemption
IDE – Investigational Device Exemption
IOM – Investigations Operations Manual
MDR – Medical Device Reporting
MDSAP – Medical Device Single Audit Program
NAI – No Action Indicated
OAFR – Other Applicable FDA Requirements
OAI – Official Action Indicated
OBI – Office of Biologics Inspectorate
OCBQ – Office of Compliance and Biologics Quality
OEI – Official Establishment Inventory
OEM – Original Equipment Manufacturer
OII – Office of Inspections and Investigations
OMDRHI – Office of Medical Device and Radiological Health Inspectorate
ORP – Office of Regulatory Programs
PAC – Product/Assignment Code
PDP – Product Development Protocol
PMA – Pre-market Approval Application
PMR – Premarket Report
QMS – Quality Management System
QMSR – Quality Management System Regulations
RRA – Remote Regulatory Assessment
SOP – Standard Operating Procedure
SPRA – Specific Product Risk Assignment
TPLC – Total Product Lifecycle
UDI – Unique Device Identification
VAI – Voluntary Action Indicated
WEAC – Winchester Engineering and Analytical Center

ATTACHMENT A
Tables of QMS Areas, OAFRs, Elements, and Requirements[16]

Change Control QMS Area

Purpose: To ensure changes are adequately evaluated for risk and impact on products and processes prior to implementation.

QMS Area	Element	Requirements
	QMS Changes	Clauses 4.1.4, 4.2.4, 4.2.5, 5.4.2, 5.6.1, 5.6.2, 5.6.3, 8.5.1
	Software Changes	Clauses 4.1.6, 7.5.6, 7.6
	Product and Process Changes	Clauses 4.1.4, 7.2.2, 7.3.9, 7.3.10, 7.5.6, 7.5.7
	Purchasing Changes	Clauses 7.4.2, 7.4.3

[16] In the tables in this Attachment, Clauses refer to the Clauses in ISO 13485:2016, which is incorporated by reference under 21 CFR 820.7. Manufacturers subject to this part are required under 21 CFR 820.10 to document a quality management system that complies with the applicable requirements of ISO 13485.

Design and Development QMS Area

Purpose: To ensure the manufacturer's design and development activities result in safe and effective medical device that meets its intended use.

QMS Area	Element	Requirements
	Customer Related Processes	21 CFR 820.10(b)(4) and Clauses 7.2.1, 7.2.2, 7.2.3
	Design and Development General	Clause 7.3.1
	Design and Development Planning	Clause 7.3.2
	Design and Development Inputs	Clause 7.3.3
	Design and Development Outputs	Clause 7.3.4
	Design and Development Review	Clause 7.3.5
	Design and Development Verification	Clause 7.3.6
	Design and Development Software Validation	Clause 7.3.7
	Design and Development Validation	Clause 7.3.7
	Design and Development Transfer	Clause 7.3.8
	Control of Design and Development Changes	Clause 7.3.9
	Design and Development Files	Clause 7.3.10

Management Oversight QMS Area

Purpose:

To ensure top management:

- **Plans, establishes, and maintains an effective QMS that provides the necessary resources to design, manufacture, and distribute safe and effective medical devices.**
- **Uses risk management and risk-based decision making effectively in the QMS.**

QMS Area	Element	Requirements
	Quality Management System	Clauses 4.1.1, 4.1.2, 4.1.3, 4.1.4
	Risk-based Approach	Clause 4.1.2 b)
	QMS Software Validation	Clause 4.1.6
	Quality Manual	Clause 4.2.2
	Medical Device File	Clause 4.2.3
	Control of Documents and Records	21 CFR 820.35, 21 CFR 820.45, and Clauses 4.2.1, 4.2.4, 4.2.5
	Management Commitment	Clause 5.1
	Customer Focus	Clause 5.2
	Quality Policy, Quality Objectives, Quality Management System Planning	Clauses 5.3, 5.4.1, 5.4.2
	Responsibility, Authority, and Communication	Clauses 5.5.1, 5.5.2, 5.5.3
	Management Review	Clauses 5.6.1, 5.6.2, 5.6.3
	Provision of Resources	Clause 6.1
	Human Resources	Clause 6.2
	Planning of Product Realization	Clause 7.1

Measurement, Analysis, and Improvement QMS Area

Purpose: To ensure monitoring, measurement, analysis, and improvement activities are effective in identifying and reducing risks that impact the product and/or the QMS.

QMS Area	Element	Requirements
	Measurement, Analysis, and Improvement - General	Clauses 8.1, 8.5.1
	Feedback	Clause 8.2.1
	Complaint Handling	21 CFR 820.10(b)(3)(4), 21 CFR 820.35, and Clauses 8.2.2, 8.2.3
	Internal Audits	Clause 8.2.4
	Monitoring and Measurement of Processes	Clause 8.2.5
	Monitoring and Measurement of Product	Clause 8.2.6
	Control of Nonconforming Product	21 CFR 820.10(b)(4) and Clauses 8.3.1, 8.3.2, 8.3.3, 8.3.4
	Analysis of Data	Clause 8.4
	Corrective Action	Clause 8.5.2
	Preventive Action	Clause 8.5.3

Outsourcing and Purchasing QMS Area

Purpose: To ensure outsourced processes, outsourced activities, and/or purchased product are effectively monitored and controlled, resulting in product that conforms to specified requirements.

QMS Area	Element	Requirements
	Outsourcing	Clause 4.1.5
	Purchasing Process	Clause 7.4.1
	Purchasing Information and Purchased Product	Clauses 7.4.2, 7.4.3

Product and Service Provision QMS Area

Purpose: To ensure planning, monitoring, and control of production and service provision results in a safe and effective medical device.

QMS Area	Element	Requirements
	Infrastructure and Maintenance	Clause 6.3
	Work Environment and Contamination Control	Clauses 6.4.1, 6.4.2
	Control of Production and Service Provision	21 CFR 820.35, 21 CFR 820.45, and Clause 7.5.1
	Cleanliness of Product	Clause 7.5.2
	Installation and Servicing Activities	21 CFR 820.35 and Clauses 7.5.3, 7.5.4
	Validation of Processes for Production and Service Provision	Clause 7.5.6
	Sterile Medical Devices and Validation of Processes for Sterilization and Sterile Barrier Systems	Clauses 7.5.5, 7.5.7
	Identification and Traceability	21 CFR 820.10(b)(1)(2), 21 CFR 820.35, 21 CFR 820.45, and Clauses 7.5.8, 7.5.9.1, 7.5.9.2
	Customer Property	Clause 7.5.10
	Preservation of Product	Clause 7.5.11
	Control of Monitoring and Measuring Equipment	Clause 7.6

OAFR	Purpose	Element	Requirements
 Medical Device Reporting	To ensure that device related deaths, serious injuries, and malfunctions have been identified, investigated, reported, and documented in a timely manner.	Medical Device Reporting	21 CFR 803, 21 CFR 820.10(b)(3)
 Reports of Corrections and Removals	To ensure the manufacturer has promptly notified FDA of any correction(s) and/or removal(s) initiated to reduce a risk to health posed by the device or to remedy a violation of the FD&C Act caused by the device, which may present a risk to health.	Reports of Corrections and Removals	21 CFR 806, 21 CFR 820.10(b)(4)
 Medical Device Tracking	To ensure manufacturers and importers of certain medical devices can expeditiously locate and remove these devices from the market and/or notify patients of significant device problems.	Medical Device Tracking Requirements	21 CFR 821, 21 CFR 820.10(b)(2)
 Unique Device Identification (UDI)	To ensure that manufacturers have assigned a UDI to the device as required and the information related to the device is correctly submitted and recorded in the Global Unique Device Identification Database (GUDID).	Unique Device Identification (UDI)	21 CFR 830, 21 CFR 820.45, 21 CFR 820.10(b)(1)

ATTACHMENT B: REMOTE REGULATORY ASSESSMENTS

In addition to its inspectional authority, FDA may conduct remote regulatory assessments (RRAs), under certain circumstances, to support oversight of FDA-regulated products and establishments[17]. An RRA is an examination of an FDA-regulated establishment and/or its records, conducted entirely remotely, to evaluate compliance with applicable FDA requirements. RRAs assist in protecting human health, informing regulatory decisions, and verifying certain information submitted to the Agency.

RRAs used in lieu of or in advance of inspections have allowed FDA to remotely evaluate certain manufacturing establishments to mitigate risks. However, RRAs are not the same as an inspection as described in section 704(a)(1) or 704(a)(5) of the Federal Food, Drug, and Cosmetic Act (FD&C Act). Generally, an inspection, such as described in section 704(a)(1) of the FD&C Act, involves duly designated officers or employees of the FDA physically entering (at reasonable times and in a reasonable manner), establishments subject to regulation under the FD&C Act to determine compliance with applicable requirements.

1. FDA Records and Other Information Requests Under Section 704(a)(4) of the FD&C Act (Statutorily Authorized RRA)

Section 704(a)(4)[18] of the FD&C Act gives FDA authority to request (and requires establishments to provide) any records or other information that FDA may inspect under section 704 of the FD&C Act, in advance of or in lieu of inspections of such establishments that engage in the manufacture, preparation, propagation, compounding, or processing of a drug or device, or a site or facility that is subject to inspection under section 704(a)(5)(C) (i.e., sites, entities, or facilities subject to bioresearch monitoring (BIMO) inspections). With regards to this compliance program, the use of this authority helps strengthen FDA's surveillance program and improve the overall effectiveness of the device inspection program. The records received from an establishment can be used to help assess an establishment's compliance with QMSR, support regulatory decisions, inform inspection planning (e.g., a risk-based inspection schedule), and prepare for a scheduled inspection (e.g., inspection coverage). The use of 704(a)(4) authority does not prevent an FDA investigator from requesting records or other information on inspection. During an inspection, FDA may collect copies of previously received documents and other documents not previously requested.

[17] Reference revised draft guidance for industry *Conducting Remote Regulatory Assessments: Questions and Answers* (July 2022). When final, this guidance will represent FDA's current thinking on this topic. Also review FDA's *An Update to the Resiliency Roadmap for FDA Inspectional Oversight* and section 704 of the Federal Food, Drug, and Cosmetic Act.

[18] 704(a)(4) of the FD&C Act was amended by the Food and Drug Omnibus Reform Act of 2022 (FDORA), as part of the Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (2022). FDORA sections 3611(b)(1)(A), and 3612(a) included device establishments (in addition to those for drugs) as establishments that are subject to mandatory requests for records or other information under 704(a)(4) (21 U.S.C. 374(a)(4))