Contains Nonbinding Recommendations

Acceptance Review for De Novo Classification Requests

Guidance for Industry and Food and Drug Administration Staff

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U.S. Department of Health and Human Services
Food and Drug Administration
Center for Devices and Radiological Health
Center for Biologics Evaluation and Research

Preface

Public Comment

You may submit electronic comments and suggestions at any time for Agency consideration to https://www.regulations.gov. Submit written comments to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Room 1061, (HFA-305), Rockville, MD 20852. Identify all comments with the docket number FDA-2017-D-6069. Comments may not be acted upon by the Agency until the document is next revised or updated.

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Guidance for Industry and Food and Drug Administration Staff

This guidance represents the current thinking of the Food and Drug Administration (FDA or Agency) on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff or Office responsible for this guidance as listed on the title page.

I. Introduction

On October 5, 2021, FDA issued a final rule on the De Novo Classification Process.[1] This final rule will add new regulations at 21 CFR Part 860, Subpart D--De Novo Classification that describe the procedures and criteria FDA will use in assessing whether a request for an evaluation of automatic class III designation (De Novo classification request or De Novo request) contains the information necessary to permit a substantive review.[2] This guidance provides recommendations with further detail regarding the types of information FDA believes are necessary to conduct a substantive review for a De Novo request, as well as recommendations regarding the acceptance review process.

Focusing the Agency's review resources on complete De Novo requests will provide a more efficient approach to ensuring that safe and effective medical devices reach patients as quickly as possible. Moreover, with the enactment of the Medical Device User Fee Amendments of 2017 (MDUFA IV),[3] FDA agreed to performance goals based on the timeliness of reviews, as well as to issue guidance that includes a submission checklist to facilitate a more efficient and timely review process (see Section II.E. of the MDUFA IV Commitment Letter).[4] Acceptance review is important in both encouraging incoming quality applications from De Novo requesters and allowing the Agency to appropriately concentrate resources on complete applications.

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[1] "Medical Device De Novo Classification Process" (86 FR 54826)

[2] 21 CFR 860.230. For more information regarding the De Novo review process, please see the FDA guidance, "De Novo Classification Process (Evaluation of Automatic Class III Designation)," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/de-novo-classification-process-evaluation-automatic-class-iii-designation.

[3] See Title II of the FDA Reauthorization Act of 2017 (Public Law 115-52).

[4] https://www.fda.gov/media/102699/download

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law. FDA guidance documents, including this guidance, should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidance means that something is suggested or recommended, but not required.

II. Scope

The information presented in this document is intended to provide De Novo requesters with additional transparency regarding the types of information FDA believes are necessary to conduct a substantive review for a De Novo request as part of the acceptance review process described in 21 CFR 860.230. To enhance consistency, the document provides FDA staff with a clear, consistent approach to making "Accept" or "Refuse to Accept" (RTA) decisions on De Novo requests.

The acceptance review requirements do not alter the process by which devices are classified in a De Novo request once accepted for substantive review; however, they do alter the start of the FDA review clock for purposes of MDUFA performance goals for De Novo requests that are not accepted for review. Further, FDA's decision to accept a De Novo request does not imply that the information provided in the De Novo request, including performance data, demonstrates that general controls, or general and special controls, are sufficient to provide reasonable assurance of the safety and effectiveness of your device or assure granting of the De Novo request.

As mentioned above, the purpose of this guidance is to explain the procedures and criteria FDA intends to use to make a threshold determination that the De Novo request contains the information necessary to permit a substantive review. This document includes an Acceptance Checklist (**Appendix A**), as explained in further detail below.

The effective date of the final rule rule is 90 days after the publication of the rule in the Federal Register to provide additional time for requesters to make any changes necessary, for example, to their internal operating procedures and documents, in preparation for submission. For a De Novo request received by FDA before the effective date of the final rule,[5] FDA staff should not use the revised checklist in this guidance when conducting acceptance reviews. Until the effective date of the final rule, FDA staff should use the version of this guidance issued September 9, 2019.

III. De Novo Acceptance Review Policies and Procedures

A. Acceptance Review Policies and Procedures

FDA staff conduct acceptance reviews of De Novo requests based on objective criteria using the Acceptance Checklist (see **Appendix A**) to ensure that the De Novo request contains the

[5] Please refer to the final rule (86 FR 54826) published on October 5, 2021 and available at https://www.federalregister.gov/d/2021-21677.

information necessary to permit a substantive review. The De Novo request regulations identify criteria that, if not met, may serve as the basis for FDA refusing to accept a De Novo request (21 CFR 860.230(c)(1)). For the De Novo request to be accepted, all items identified as elements of a complete De Novo request ("RTA items") in the Acceptance Checklist should be present or a rationale should be provided for those elements determined by the requester to be not applicable. To aid in the acceptance review, it is recommended that requesters complete and submit Acceptance Checklists with their De Novo requests that identify the location of supporting information for each acceptance element.

The acceptance review occurs prior to the substantive review and should be conducted and completed within 15 calendar days of FDA receiving the De Novo request. An acceptance review will only begin for De Novo requests for which the applicable user fee has been paid and a valid eCopy has been received.[6]

The acceptance review will be conducted on original De Novo requests and responses to acceptance review communications but not supplements or amendments submitted in response to requests for additional information after a De Novo request has been accepted for a substantive review. FDA staff should assess whether the De Novo request should be accepted by first answering the preliminary questions below and then verifying that the De Novo request contains all the information identified as RTA items in the Acceptance Checklist.

The purpose of the acceptance review is to assess whether a De Novo request contains the information necessary for FDA to conduct a substantive review (see 21 CFR 860.230(a)). Therefore, the De Novo request generally should not be accepted and should receive an RTA designation if one or more of the items noted as RTA items in the Acceptance Checklist are not present and no explanation is provided for the omission(s). However, during the RTA review, FDA staff has discretion to determine whether missing checklist items are needed to ensure that the De Novo request contains the information necessary to permit a substantive review. FDA staff also has discretion to request missing checklist items interactively from requesters during the RTA review. Interaction during the RTA reviews is dependent on FDA staff's determination that outstanding issues are appropriate for interactive review and that adequate time is available for the requester to provide supporting information and for FDA staff to assess responses.

If FDA refuses to accept a De Novo request, FDA will notify the requester of the reasons for the refusal and identify the deficiencies in the De Novo request that prevent accepting (21 CFR 860.230(c)(2)). If one or more items noted as RTA items on the Acceptance Checklist are not present and FDA staff conducting the acceptance review determine that the submission should be refused, FDA staff should obtain management concurrence and notify the designated De Novo

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[6] See sections 738(a)(2)(A)(xi) and 738(f)(1) of the FD&C Act, section 745A(b) of the FD&C Act, and the FDA guidance, "eCopy Program for Medical Device Submissions," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/ecopy-program-medical-device-submissions. Additional information is also provided in the FDA guidance, "FDA and Industry Actions on De Novo Classification Requests: Effect on FDA Review Clock and Goals," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/fda-and-industry-actions-de-novo-classification-requests-effect-fda-review-clock-and-goals.

contact person electronically[7] that the De Novo request has not been accepted. FDA staff will also provide the requester with a copy of the completed checklist indicating which item(s) are the basis for the RTA designation.

The De Novo requester may respond to the RTA notification by providing the missing information identified in the Acceptance Checklist. When providing the missing information, the De Novo requester must submit this information to the respective Center's Document Control Center (DCC)[8] to be included in the file under the originally assigned De Novo request reference number (21 CFR 860.210(a)(1) and 860.230(c)(3)). A new De Novo request and new user fee are not necessary, and it is not necessary to resend the entire De Novo request, unless FDA notes otherwise (e.g., because the De Novo request is missing the majority of the items on the checklist). It is sufficient to submit and address only the information requested in the RTA notification. If a complete response to the RTA notification is not received within 180 days of the date of RTA notification, FDA will consider the De Novo request to be withdrawn and the De Novo request will be closed in the system (21 CFR 860.250(a)(2)).

Upon receipt of newly submitted information in response to an RTA notification, FDA staff should conduct the acceptance review again, following the same procedure, within 15 calendar days of receipt of the new information. This acceptance review will assess whether the new information makes the De Novo request complete according to the checklist criteria for completeness. If the De Novo request is still found to be incomplete, FDA staff should notify the contact person and provide a copy of the new checklist indicating the missing item(s).

When a De Novo request is accepted, FDA will notify the requester (21 CFR 860.230(a)). FDA staff should electronically notify the De Novo request contact person that the De Novo request has been accepted and begin a substantive review of the De Novo request. If FDA does not complete the acceptance review within the acceptance review period (i.e., within 15 calendar days of receipt), FDA will accept the De Novo request for review and will notify the requester (21 CFR 860.230(b)). In this situation, the De Novo requester should be electronically notified that the acceptance review was not completed and the De Novo request is under substantive review.[9] FDA may request any information that may have resulted in an RTA designation during the substantive review. Once a De Novo request has been accepted, FDA may ask for relevant information during the substantive review that may have been unintentionally overlooked during the acceptance review.

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[7] For additional information about email communications with CBER, please see "SOPP 8119: Use of Email for Regulatory Communications," available at https://www.fda.gov/media/108992/download.

[8] For devices regulated by the CDRH, the information must be sent to the current address displayed on the website https://www.fda.gov/cdrhsubmissionaddress. For devices regulated by the CBER, the information must be sent to the current address displayed on the website https://www.fda.gov/about-fda/center-biologics-evaluation-and-research-cber/regulatory-submissions-electronic-and-paper.

[9] In the case of a government closure during the 15-day acceptance review period, the review period may be extended by a comparable number of business days that the FDA buildings are closed. If the submitter receives an automated notice that the acceptance review was not completed because the screening period has exceeded 15 days, FDA may send a correction notice to the De Novo requester.

B. FDA Review Clock

The FDA review clock start date is the DCC receipt date of the most recent De Novo request or additional information that resulted in an acceptance designation for the De Novo request (21 CFR 860.230(b) and 21 CFR 860.230(c)(3)). As stated above, an acceptance review will only begin for De Novo requests for which the applicable user fee has been paid and a valid eCopy has been received. Thus, the FDA review clock does not start when a De Novo request is placed on eCopy or User Fee hold or is designated RTA.

De Novo requests and additional information submitted in response to an RTA designation are received by the respective Center's DCC. If the De Novo request is accepted for substantive review on the first acceptance review, the FDA review clock start date is the DCC receipt date of the De Novo request. However, if the De Novo request is designated RTA, the FDA review clock start date will be the DCC receipt date of the De Novo request including the additional information that results in an acceptance designation (even if FDA later requests information that should have been requested during acceptance review). In the event the acceptance review was not completed within 15 calendar days, the De Novo request will be considered to be under substantive review, and the FDA review clock start date will be the DCC receipt date of the most recently received information that was the subject of the acceptance review for the De Novo request. Once the De Novo request is under substantive review, the calendar days used to conduct the acceptance review (i.e., up to 15 days) are included within the calendar days to reach a final decision for the De Novo request.

C. Notification of Acceptance Review Result

The De Novo requester should receive an electronic notification of the acceptance review result within 15 calendar days of DCC receipt (i.e., that the De Novo request has been accepted for substantive review, that the De Novo request is not accepted for review (RTA), or that the De Novo request is now under substantive review because the acceptance review was not completed). This notification will also serve to identify the FDA lead reviewer[10] assigned to the De Novo request. The notification of either the acceptance or RTA designation will be made only with supervisory concurrence of the lead reviewer's acceptance review determination. The notification of acceptance or RTA designation may occur on any day prior to the 15th calendar day of DCC receipt. However, in the event the acceptance review was not completed within 15 calendar days, a notification that an RTA review was not completed will be sent on the 16th day. The notification will be sent only to the designated contact person identified in the De Novo request. In the case of an RTA designation, the notification should be accompanied by the completed Acceptance Checklist indicating the missing elements that resulted in the RTA designation. The completed checklists are considered part of the De Novo request's administrative file and are not posted publicly when FDA makes the RTA designation. Therefore, it is imperative that the De Novo request identify complete contact information,

[10] In the case of De Novo requests submitted to CBER, whenever the term "lead reviewer" is used in this guidance, the equivalent CBER contact person is the regulatory project manager (RPM).

including the email address to which the notification should be sent as required under 21 CFR 860.220(a)(2).[11]

IV. Refuse to Accept Principles

In order to use this guidance appropriately, FDA staff should review the following basic principles regarding FDA's review policies and procedures.

Acceptance should not be based on a substantive review of the information provided in the De Novo request.

It is important to make the distinction between the acceptance review and the substantive review. The acceptance review is conducted to make a threshold determination of whether the De Novo request contains information necessary, as identified in 21 CFR 860.220, 21 CFR 860.230, and the Acceptance Checklist, to permit a substantive review. In assessing whether a De Novo request should be accepted, submitted information is not evaluated for adequacy to support granting the De Novo request. The Acceptance Checklist is a tool to ensure that the De Novo request contains the necessary information to conduct a substantive review (i.e., FDA should not refuse to accept a De Novo request if information is present but inadequate to support granting the De Novo request). The evaluation of the quality of the content occurs within the substantive review once the De Novo request has been accepted.

FDA staff should determine whether the requester provided a justification for any alternative approach.

The De Novo requester may provide a rationale for why any criteria in the checklist are not applicable to the device. It is FDA's expectation that each item in the Acceptance Checklist will be addressed either by including the requested information or providing a rationale for why it is not applicable or why there is a deviation.

FDA will not consider a given criterion in the checklist to be "present" if the De Novo request fails to include either the information identified or a rationale for omission or deviation. If a justification to omit certain information or for taking an alternative approach is provided, FDA will consider the adequacy of that justification or alternative approach during substantive review of the De Novo request. See **Section VI** below for examples and further explanation.

V. The Checklist – Preliminary Questions

Within 15 calendar days of receipt of the De Novo request, FDA staff should answer the preliminary questions below, which are included on the first page of the Acceptance Checklist. The preliminary questions are intended to be answered by the lead reviewer as an initial screening of the De Novo request. Depending upon the answers to these preliminary questions, the remainder of the acceptance review may or may not be necessary.

[11] CBER will accommodate the use of faxes; submitters may also wish to provide a fax number.

If the responses to the preliminary questions and subsequent consultation with the Center personnel identified below indicate that the De Novo acceptance review should not continue[12] the CDRH lead reviewer or the CBER regulatory project manager (RPM) should promptly:

- inform the De Novo review team (including consulting reviewers); and
- notify the requester using proper administrative procedures.

The preliminary questions are:

1. **Is the product a device (per section 201(h) of the FD&C Act) or a combination product (per 21 CFR 3.2(e)) with a device constituent part subject to review in a De Novo request?**

If the product does not appear to meet the definition of a device under section 201(h) of the FD&C Act, or does not appear to be a combination product with a device constituent part, then the De Novo lead reviewer should consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action and inform management. If FDA staff determines that the product does not appear to be a device or a combination product with a device constituent part, the De Novo review team should stop the review and notify the requester.

2. **Is the De Novo request with the appropriate Center?**

If the De Novo request is for a single-entity device and appears to be subject to review in a Center different from the one to which it was submitted, or if it is for a combination product with a device constituent part and it appears that a Center different from the one to which it was submitted has the lead, the De Novo request lead reviewer should consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action and inform management. If the De Novo request is submitted to CDRH and CDRH staff determines that the De Novo request is not subject to CDRH review, or the De Novo request is submitted to CBER and CBER staff determines that the De Novo request is not subject to CBER review, the De Novo request review team should stop the review and notify the requester.

[12] FDA will not process a De Novo request unless it meets the following requirements: (a) the submission must be sent with the user fee required by section 738 of FD&C Act and (b) a valid eCopy is provided. See sections 738(a)(2)(A)(xi) and 738(f)(1) of the FD&C Act, section 745A(b) of the FD&C Act, and the FDA guidance, "eCopy Program for Medical Device Submissions," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/ecopy-program-medical-device-submissions. Because any De Novo request not meeting these two requirements will not be processed by the CDRH DCC or the CBER RPM, these requirements are not included in the checklist.

3. **If a Request for Designation (RFD) was submitted for the device or combination product with a device constituent part and assigned to your Center, identify the RFD # and confirm the following:**
   - **Is the device or combination product the same (e.g., design, formulation) as that presented in the RFD submission?**
   - **Are the indications for use for the device or combination product identified in the De Novo request the same as those identified in the RFD submission?**

An RFD determination is specific to the device or combination product and indications for use for the device or combination product described in the RFD submission. If the device or combination product has been modified or the indications for use have been modified since the RFD, the RFD determination may no longer be applicable and jurisdiction may need to be reevaluated by the Office of Combination Products (OCP). The De Novo lead reviewer should consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action and inform management.

4. **Is the De Novo request for a combination product that contains as a constituent part a drug that has the same active moiety as an approved drug with exclusivity as described in section 503(g)(5)(C)(ii)-(v) of the FD&C Act?**

If the De Novo request is for a combination product and contains as a constituent a drug that has the same active moiety as an approved drug with exclusivity as described in section 503(g)(5)(C)(ii)-(v) of the FD&C Act, the lead reviewer should contact the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer to determine the appropriate action and inform management.

5. **Is this device type eligible on its face for De Novo classification?**

FDA staff should determine whether the subject device is a device type for which De Novo classification is known to be an inappropriate regulatory approach. If the device does not appear to be eligible for De Novo classification (e.g., a predicate device exists, an existing classification regulation exists for the same device type, or an approved PMA(s) exists for the same device type), FDA staff should make this determination during the acceptance review. This question is not intended to identify De Novo requests for which a substantive review is required in order to determine if De Novo classification is an inappropriate approach (e.g., FDA staff need to conduct a substantive review of information in the request to research and analyze De Novo eligibility or to determine if special controls can mitigate the identified risks to health). If FDA determines the device is ineligible during the acceptance review, FDA considers this to be a basis for refusing to accept the submission (see section 513(f)(2) of the FD&C Act, 21 CFR 860.200, 21 CFR 860.230(c)(1)(ii), and 83 FR 63128).

We do not anticipate that De Novo requests for the same device type from different requesters will frequently be under review concurrently. If a De Novo request for the same device from a different requester is currently under review at the time another De Novo request for the same device type is submitted to the Agency, this fact alone would not result in a "Refuse to Accept"

decision. Please see "De Novo Classification Process (Evaluation of Automatic Class III Designation)"[13] for additional information regarding this situation.

6. Is the requester subject to the Application Integrity Policy (AIP)?[14]

The lead reviewer should refer to the AIP list.[15] If the requester is on the list, the reviewer should consult the CDRH OPEQ: Office of Product Evaluation and Quality/OCEA: Office of Clinical Evidence and Analysis/DCEA1: Division of Clinical Science and Quality or CBER Office of Compliance and Biologics Quality/Division of Inspections and Surveillance/Bioresearch Monitoring Branch (OCBQ/DIS/BMB) to determine the appropriate action.

VI. The Checklist – Acceptance Review

A. Elements of a Complete De Novo Request (RTA Items)

The objective criteria in the Acceptance Checklist outline those elements that are essential to FDA's substantive review of the De Novo request and classification of the subject device under section 513(a)(1) of the FD&C Act, 513(f)(2) of the FD&C Act, and 21 CFR Part 860, Subpart D or required under other statutory provisions or regulations.

B. Applying the Checklist of RTA Items

Using the Acceptance Checklist, within 15 calendar days of receipt of the De Novo request, FDA staff should answer each question for the elements identified as RTA items. For those items that have an option of "yes," "no," or "not applicable" (N/A) as an answer, the item should receive an answer of "yes" or "N/A" for the De Novo request to be accepted for substantive review. For any element that offers more than one option to be accepted for substantive review, FDA staff should indicate whether the De Novo request has addressed one of the options for acceptance.

C. Elements Marked as "Not Applicable" (N/A)

The Acceptance Checklist is intended to contain elements necessary for FDA's substantive review of the wide range of medical devices that are appropriate for De Novo classification. All such criteria may not be pertinent to a particular device. FDA staff should select "N/A" for those elements that do not apply to the subject device. For example, the requirements for financial certification and disclosure statements (21 CFR 860.220(a)(15)(iii)(E)) only apply to De Novo

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[13] https://www.fda.gov/regulatory-information/search-fda-guidance-documents/de-novo-classification-process-evaluation-automatic-class-iii-designation

[14] When data in a pending submission have been called into question by certain wrongful acts (fraud, untrue statements of material facts, bribery, or illegal gratuities), FDA intends to defer substantive scientific review of such data until completion of a validity assessment and questions regarding reliability of the data are resolved. (See FDA Guide 7150.09 Compliance Policy Guide, Chapter 50 – General Policy – Subject: Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities, 56 FR 46191.)

[15] https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/application-integrity-policy/application-integrity-policy-list

requests with clinical data. If the De Novo request contains no clinical data, FDA staff should select "N/A."

D. Adequacy of Information

In order to make the checklist criteria objective, for each RTA item, FDA should consider only the presence or omission of the element or a rationale for the omission of the element or use of an alternative approach during acceptance review. It is likely that FDA staff will encounter scenarios where information is provided but is incomplete or inadequate. In such instances, FDA staff should answer the question for the respective item as "yes" but may communicate the inadequacy or request additional information during the substantive review. For example, the requester may have provided information for performance testing; however, during the acceptance review, the reviewer may note that the results of a particular test may not be sufficient to determine if the test adequately mitigates a risk to health, and additional justification would be needed. The performance testing criterion would be marked "yes" in the checklist, and the full assessment of the results and communication to the requester that additional justification is needed should occur during the substantive review.

E. Elements Marked "No"

For any acceptance criterion designated as "no," FDA intends to provide an explanation to describe the missing element(s), if needed. This explanation is particularly important for a criterion in which it may not be immediately apparent to the requester what necessary information, specifically, is not present. FDA staff should include a list or statement of the additional information that is necessary to meet the acceptance criteria. This list or statement can be communicated in the "comment" section on the checklist beside each specific criterion.

F. Combination Product Administrative Items

The 21st Century Cures Act, which amended section 503(g) of the FD&C Act, requires requesters seeking action on a combination product to identify the product as such (section 503(g)(8)(C)(v) of the FD&C Act). Additionally, per the amended section 503(g)(5), requests for device-led, device-drug combination products must include the patent certification or statement as described in section 505(b)(2) and provide notice as described in section 505(b)(3) if the combination product contains as a constituent part an approved drug(see section 503(g)(5)(A) of the FD&C Act). De Novo requesters of products that are not combination products, as defined in 21 CFR 3.2(e), should mark "N/A" and omit this section pertaining to combination products.

G. De Novo Requesters of Combination Products That Do Not Contain as a Constituent Part an Approved Drug

If the combination products do not include as a constituent part an approved drug as defined in section 503(g)(5)(B), requesters of device-led, device-drug combination products should mark "N/A" for element B.8.b.

H. De Novo Requesters of Combination Products That Contain as a Constituent Part an Approved Drug

De Novo requesters of combination products containing as a constituent part an approved drug should address question B.8 by including patent information. For each relevant patent, the requester should include certification to one of the following certifications:

i. That such patent information has not been filed (section 505(b)(2)(A)(i)).
ii. That such patent has expired (section 505(b)(2)(A)(ii)).
iii. The date on which the patent will expire (section 505(b)(2)(A)(iii)).
iv. That such patent is invalid or will not be infringed by the manufacture, use, or sale of the drug constituent part for which this submission is made (section 505(b)(2)(A)(iv)).

However, for a method of use patent which does not claim a use for which the requester is seeking approval, the requester should include a statement per section 505(b)(2)(B) that the method of use patent does not claim such a use.

Requesters including a certification under paragraph (iv) (section 505(b)(2)(A)(iv)) should also certify that they will provide notice to the owner of the patent(s) and the holder of the approved application that lists the patent(s) that is/are being challenged. The process for giving notice is provided in section 505(b)(3) of the FD&C Act. De Novo requesters should submit to FDA documentation of the date of receipt of notice by the holder of the approved application and the owner of the patent(s).

I. Is there an open or pending premarket submission or reclassification petition for the same device with the same indications for use?

If the De Novo requester has an open or pending premarket submission (510(k), PMA, HDE),[16] or reclassification petition for the same device with the same indications for use, the De Novo request should receive an RTA designation (21 CFR 860.230(c)(1)(i)), and the review team should work with the De Novo requester to clarify the appropriate regulatory pathway and premarket submission type. The review team should also consult management and other Center resources to determine which premarket review pathway applies to the device and the appropriate processes for addressing the situation. FDA staff should also consult management and other Center resources if a 510(k), PMA, HDE,or reclassification petition has been submitted for the same device type by different applicants.

[16] FDA does not intend to refuse a De Novo request on the basis that there are open or pending Investigational Device Exemptions (IDEs) or Q-Submissions for the device.

J. De Novo Request is for a Single Device Type

It may be appropriate for FDA to review multiple devices in a single marketing submission under certain circumstances.[17] For example, it may be appropriate for multiple sizes of a device to be reviewed together in a De Novo request and classified together as the same type of device under a single regulation. However, if a De Novo requester is instead proposing that multiple device types be classified under a single De Novo request (e.g., a submission for a device with multiple proposed indications or technologies that each have different benefit-risk considerations and supporting datasets would likely constitute more than one device type), the De Novo request should receive an RTA designation (see 21 CFR 860.230(c)(1)(iv)) and the review team should work with the De Novo requester to clarify which device type should be the subject of the De Novo request. This helps ensure efficient use of FDA resources by confining the scientific and regulatory issues in a submission to a single classification decision so that FDA can render a timely decision and assess user fees appropriately.

K. Prior Submission(s) Relevant to the De Novo Request Under Review

For certain De Novo requests, the requester may have previously provided other submissions for the same device for which FDA provided feedback related to the data or information needed to support De Novo classification (e.g., a Pre-Submission request, Investigational Device Exemption (IDE), prior Not Substantially Equivalent (NSE) determination, or prior 510(k) or De Novo that was deleted or withdrawn). These prior submissions must be identified in the De Novo request or the request must include a statement that there have been no prior submissions (21 CFR 860.220(a)(3)). In some cases, the requester may also have received a prior decline order for the same device, or FDA may have identified deficiencies in another previous submission for the same device that is the subject of the De Novo request. If the requester has not responded to, or has failed to provide a rationale for not responding to, such deficiencies, FDA may refuse to accept the De Novo request (21 CFR 860.230(c)(1)(v)), and the Acceptance Checklist includes a corresponding criterion. FDA suggests designating a separate section of the De Novo request that identifies any prior submission(s) by number, includes a copy of or cross-reference to prior FDA feedback (e.g., letter or meeting minutes), and states how or where in the De Novo request this prior feedback was addressed, including feedback related to any prior related De Novo requests. Note that the adequacy of how the feedback was addressed should be assessed during the substantive review.

To address the requirement under 21 CFR 860.220(a)(3) regarding the existence of prior submissions and the corresponding checklist criterion, FDA recommends that requesters provide this information in Section F of the CDRH Premarket Review Submission Cover Sheet,

[17] See also FDA's guidance entitled "Bundling Multiple Devices or Multiple Indications in a Single Submission," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/bundling-multiple-devices-or-multiple-indications-single-submission.

indicating the submission is a De Novo request.[18] Requesters should list prior submissions in Section F of this form or state that there were no prior submissions to address this criterion. Please be advised that leaving this section of the form blank will not be considered a statement that there were no prior submissions. This information may also be included in the cover letter (i.e., either as a statement that there were no prior submissions for the device, or a listing of the number(s) of the prior submission(s)).

VII. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

The time required to complete this information collection is estimated to be 182 hours. This includes the time to review instructions, search existing data sources, gather the data needed, and complete and review the information collection. Send comments regarding this burden estimate or suggestions for reducing this burden to:

Department of Health and Human Services
Food and Drug Administration
Office of Chief Information Officer
Paperwork Reduction Act (PRA) Staff
PRAStaff@fda.hhs.gov

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection is 0910-0844 (expires 08-31-2022).

[18] Form FDA 3514, available at https://www.fda.gov/media/72421/download.

Appendix A. Acceptance Checklist for De Novo Classification Requests

(To be completed within 15 days of DCC receipt)
The following information is not intended to serve as a comprehensive review.
FDA recommends that the requester include this completed checklist as part of the De Novo request.

De Novo #: DEN_____ **Date Received by DCC:**

Lead Reviewer:

Center: **Office:** **Division:**

Note: If an element is left blank on the checklist, it does not mean the checklist is incomplete; it means the reviewer did not assess the element during the RTA review and that the element will be assessed during substantive review.

Preliminary Questions			
Answers in the shaded blocks indicate consultation with a Center advisor is needed. (Boxes checked in this section represent FDAs preliminary assessment of these questions at the time of administrative review.)	**Yes**	**No**	**N/A**
1. Is the product a device (per section 201(h) of the FD&C Act) or a combination product (per 21 CFR 3.2(e)) with a device constituent part subject to review in a De Novo request? If it appears not to be a device (per section 201(h) of the FD&C Act) or such a combination product, or you are unsure, consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action, and inform management. *Provide a summary of the Product Jurisdiction Officer's determination.* If the product does not appear to be a device or such a combination product, mark "No."	☐	☐	☐
Comments:			
2. Is the De Novo request with the appropriate Center? If the product is a device or a combination product with a device constituent part, is it subject to review by the Center in which the De Novo request was received? If you believe the De Novo request is not with the appropriate Center, or you are unsure, consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action and inform your management. *Provide a summary of the Product Jurisdiction Officer's determination.* If the De Novo request should not be reviewed by your Center, mark "No."	☐	☐	☐
Comments:			

Preliminary Questions			
Answers in the shaded blocks indicate consultation with a Center advisor is needed. (Boxes checked in this section represent FDAs preliminary assessment of these questions at the time of administrative review.)	**Yes**	**No**	**N/A**
3. If a Request for Designation (RFD) was submitted for the device or combination product with a device constituent part and assigned to your Center, identify the RFD # and confirm the following: **a. Is the device or combination product the same (e.g., design, formulation) as that presented in the RFD submission?** **b. Are the indications for use for the device or combination product identified in the De Novo request the same as those identified in the RFD submission?** If you believe the product or the indications presented in the De Novo request have changed from the RFD, or you are unsure, consult with the CDRH Product Jurisdiction Officer or the CBER Product Jurisdiction Officer to determine the appropriate action and inform your management. *Provide summary of Product Jurisdiction Officer's determination.* If the answer to either question above is no, mark "No." If there was no RFD, mark "N/A."	☐	☐	☐
Comments:			
4. Is the De Novo request for a combination product that contains as a constituent part drug that has the same active moiety as an approved drug with exclusivity as described in section 503(g)(5)(C)(ii)-(v) of the FD&C Act? If "Yes," then contact the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer, provide a summary of the discussion with them, and indicate their recommendation/action.	☐	☐	☐
Comments:			
5. Is the device is eligible on its face for De Novo classification? If substantive review is required to determine whether the device is eligible for De Novo classification (e.g., research to determine whether a predicate device exists, an existing classification regulation exists for the same device type, or an approved PMA(s) exists for the same device type), this item can be left blank. If the device type is not eligible for De Novo classification, mark "No."	☐	☐	☐
Comments:			
6. Is the requester subject to the Application Integrity Policy (AIP)? If yes, consult with the CDRH Office of Product Evaluation and Quality/Office of Clinical Evidence and Analysis/Division of Clinical Science and Quality (OPEQ/OCEA/DCEA1) or CBER Office of Compliance and Biologics Quality/Division of Inspections and Surveillance/Bioresearch Monitoring Branch (OCBQ/DIS/BMB) to determine the appropriate action. Check the AIP list at https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/application-integrity-policy/application-integrity-policy-list.	☐	☐	☐

- If the answer to 1 or 2 appears to be "No," then stop review of the De Novo request and contact the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer.
- If the answer to 3a or 3b appears to be "No," then stop the review and contact the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer.
- If the answer to 4 is "Yes," then contact the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer, provide a summary of the discussion with them, and indicate their recommendation/action.
- If the answer to 5 is "No," then stop review of the De Novo request and discuss with CDRH/OPEQ/ORP/DRP1 or CBER Device Regulatory Operations. This may be considered a basis for a refusal to accept the submission.
- If the answer to 6 is "Yes," then contact CDRH/OPEQ/OCEA/DCEA1 or CBER/OCBQ/DIS/BMB, provide a summary of the discussion with DCEA1 or BMB Staff, and indicate their recommendation/action.

Elements of a Complete De Novo Request **(Section 513(f)(2) of the FD&C Act and 21 CFR Part 860, Subpart D, unless otherwise indicated)**
• Any "No" answer can result in a "Refuse to Accept" decision; however, FDA staff has discretion to determine whether missing items are needed to ensure that the request is administratively complete to allow the request to be accepted or to request missing checklist items interactively from requesters during the RTA review. • Each element on the checklist should be addressed within the request. The requester may provide a rationale for omission for any criteria that are deemed not applicable. If a rationale is provided, the criterion is considered present ("Yes"). An assessment of the rationale will be considered during the review of the request.

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
A. Organizational Elements				
1. De Novo request contains a Table of Contents. Each section should be labeled (e.g., headings or tabs designating Device Description section, Classification Information and Supporting Data, etc.).	☐	☐		

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
2. All pages of the De Novo request are numbered. All pages should be numbered in such a manner that information can be referenced by page number. This may be done either by consecutively numbering the entire De Novo request, or numbering the pages within a section (e.g., 12-1, 12-2…).	☐	☐		
Comments:				
B. Administrative Information				
1. All content used to support the De Novo request is written in English (including translations of test reports, literature articles, etc.)	☐	☐		
Comments:				
2. De Novo request includes the name, address, phone, and email address of the requester and U.S. representative, if applicable, as well as the establishment registration number, if applicable, of the owner or operator submitting the De Novo request.	☐	☐		
Comments:				
3. De Novo request identifies the generic name of the device as well as any proprietary name or trade name. FDA recommends use of the CDRH Premarket Review Submission Cover Sheet (Form FDA 3514) and indicating that the submission is a De Novo request.	☐	☐	☐	
Comments:				
4. De Novo request contains a description of the device's indications for use, with prescription (Rx) and/or over-the-counter (OTC) use designated.	☐	☐		
Comments:				
5. There are no open or pending premarket submissions, including a pending 510(k), PMA, HDE, or reclassification petition submissions for the same device with the same indications for use. If the De Novo request is the only submission under review for this device, mark "Yes." If there are other pending submissions, mark "No" and consult management and the appropriate CDRH or CBER staff to determine the appropriate action.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
6. The De Novo request is for a single device type. Multiple devices may be submitted for review in a De Novo request (e.g., multiple sizes of the same device). If multiple device types are proposed to be classified in a single De Novo request, mark "No."	☐	☐		
Comments:				
7. The De Novo request identifies prior submissions for the same device included in the current De Novo request (e.g., prior De Novo decline order; prior deleted or withdrawn 510(k) or De Novo request; prior 510(k) that received not substantially equivalent [NSE] determination; or prior Q-Submission, IDE, PMA, etc.). **OR** The De Novo request states that there were no prior submissions for the subject device. Prior submissions (or statement of no prior submissions) for this device should be included in Section F of the CDRH Premarket Review Submission Cover Sheet (Form FDA 3514). This information may also be included in the Cover Letter (i.e., as a statement that there were no prior submissions for the device, or a listing of the number(s) of the prior submission(s)).	☐	☐		
a. If there were prior submissions for the same device, the requester has responded to deficiencies identified by FDA in prior submissions, or has provided a rationale for not responding to those deficiencies. It is recommended that the De Novo request include a separate section with the prior submission number(s), a copy of the FDA feedback (e.g., letter, meeting minutes), and a statement of how or where in the submission this prior feedback was addressed. Select "N/A" if the requester states there were no prior submissions.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
8. **Combination Product Provisions – Per 503(g) of the FD&C Act.** Select "N/A" if the product is not a combination product. 21 CFR 3.2(e). The remaining criteria in this section will be omitted from the checklist if "N/A" is selected. If you are unsure if the product is a combination product, consult with the CDRH Product Jurisdiction Officer or CBER Product Jurisdiction Officer.			☐	
a. Request identifies the product as a combination product	☐	☐		
b. The combination product contains as a constituent part an approved drug as defined in section 503(g)(5)(B) of the FD&C Act. Select "N/A" if the combination product does not contain as a constituent part an approved drug. Please also select "N/A" if a right of reference for use for the drug constituent part(s) is included with the request. If "N/A" is selected, part i. below is omitted from the checklist	☐		☐	
i. The De Novo request includes appropriate patent statement or certification and a statement that the applicant will give notice, as applicable. See section 503(g)(5)(A) & (C) of the FD&C Act.	☐	☐		
Comments:				
C. Device Description				
1. A complete description of the device (including, where applicable, pictorial representations, device specifications, and engineering drawings) and of its principles of operation.	☐	☐		
a. Where necessary to describe the device, the device description includes pictorial representations, device specifications, and engineering drawing(s), which could include schematics, illustrations, photos and/or figures of the device. Alternatively, include a statement that engineering drawings, pictorial representations, etc. are not applicable to the device to justify their omission (e.g., the device is a reagent and figures are not pertinent to describe the device). In lieu of engineering drawings, pictorial representations, etc. of each device to be marketed, "representative" drawings, etc. may be provided, where "representative" is intended to mean that the drawings, etc. provided capture the differences in design, size, and other important characteristics of the various models, sizes, or versions of the device(s) to be marketed.	☐	☐	☐	

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
b. A description of proposed conditions of use; surgical technique for implants; anatomical location of use; user interface; how the device interacts with other devices; and/or how the device interacts with the patient.	☐	☐	☐	
Comments:				
2. A complete description of the properties of the device relevant to the diagnosis, treatment, prevention, cure, or mitigation of a disease or condition and/or the effect of the device on the structure or function of the body.	☐	☐		
Comments:				
3. A complete description of each of the functional components or ingredients of the device, if the device consists of more than one physical component or ingredient. This description includes any parts or accessories to be marketed with the device that are the subject of the De Novo request (e.g., the request seeks marketing authorization for a device and an accessory to that device).	☐	☐	☐	
Comments:				
4. A list of the relevant FDA-assigned reference number(s) for any medical devices (such as accessories or components) that are intended to be used with the device and that are already legally marketed.	☐	☐	☐	
Comments:				
D. Alternative Practices and Procedures				
1. The De Novo request contains a description of existing alternative practices or procedures used in diagnosing, treating, preventing, curing, or mitigating the disease or condition for which the device is intended or which similarly affect the structure and function of the body and that are known or should reasonably be known to the requester. If there are no known or reasonably known alternative practices or procedures, include a statement to that effect to justify their omission.	☐	☐		
Comments:				
E. Classification Summary and Proposed Classification				
1. For devices which were not the subject of a previous 510(k) submission, the De Novo request includes a classification summary with a complete description of the following:	☐	☐	☐	

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
a. The searches used to establish that no legally marketed device of the same type exists.	☐	☐		
b. A list of the classification regulations, PMAs, HDEs, EUAs, 510(k)s, and/or product codes regarding devices that are potentially similar to the subject device.	☐	☐		
c. A rationale explaining how the subject device is different from the devices covered by the classification regulations, PMAs, HDEs, EUAs, 510(k)s, and/or product codes identified in the list.	☐	☐		
Comments:				
2. For devices which were the subject of a previous 510(k) NSE decision, the relevant 510(k) number, along with a summary of the search performed to confirm the device has not been classified or reclassified since the date the NSE order was issued.	☐	☐	☐	
Comments:				
3. **Benefit-Risk:** The De Novo request includes a discussion of the probable benefits to health from use of the device and any probable risks to health from such use. See the FDA guidance document entitled, "Factors to Consider When Making Benefit-Risk Determinations in Medical Device Premarket Approval and De Novo Classifications," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/factors-consider-when-making-benefit-risk-determinations-medical-device-premarket-approval-and-de.	☐	☐		
Comments:				
a. The benefit-risk discussion addresses how the data and information in the De Novo request constitute valid scientific evidence within the meaning of 21 CFR 860.7(c).	☐	☐		
Comments:				
b. The benefit-risk discussion addresses why the probable benefit to health from use of the device outweighs any probable injury or illness from such use, when subject to general controls or general and special controls.	☐	☐		
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
4. The De Novo request includes a summary of the probable risks to health associated with use of the device that are known or should reasonably be known to the requester and the proposed mitigation measures, including general controls and, if recommended to be a class II device, special controls, for each identified risk. For each mitigation measure that involves specific performance testing or labeling, the De Novo request provides a reference to the associated section or pages for the supporting information in the De Novo request.	☐	☐		
Comments:				
5. The De Novo request identifies a recommended class (I or II). If class I, the De Novo request provides a description of why general controls provide reasonable assurance of safety and effectiveness. If class II, the De Novo request identifies proposed special controls and describes how general controls and special controls provide a reasonable assurance of safety and effectiveness.	☐	☐		
Comments:				
F. Summary of Studies				
1. The De Novo request includes a summary of the results of the technical data contained within the De Novo request.	☐	☐	☐	
Comments:				
2. Each study summary includes a description of the objective of the study, a description of the experimental design of the study, a brief description of how the data were collected and analyzed, and a brief description of the results, whether positive, negative, or inconclusive.	☐	☐	☐	
Comments:				
3. The summary of studies includes a summary of each nonclinical study submitted in the De Novo request. Nonclinical test report summary content recommendations can be found in FDA's guidance "Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommended-content-and-format-non-clinical-bench-performance-testing-information-premarket.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
4. The summary of studies includes a summary of each clinical investigation submitted in the De Novo request and identifies any clinical investigations conducted under an IDE.	☐	☐	☐	
Comments:				
5. The summary of each clinical investigation involving human subjects submitted in the De Novo request includes a discussion of investigation design, subject selection and exclusion criteria, investigation population, investigation period, safety and effectiveness data, adverse reactions and complications, subject discontinuation, subject complaints, device failures (including unexpected software events, if applicable) and replacements, results of statistical analyses of the clinical investigations, contraindications and precautions for use of the device, and other information from the clinical investigations as appropriate.	☐	☐	☐	
Comments:				
G. Nonclinical Studies				
1. The De Novo request provides a protocol and complete test report (including results) for each nonclinical study provided in the De Novo request (including any testing described below in Items G.2-G.5 and any animal studies provided in the request). Protocol and complete test report content recommendations can be found in FDA's guidance "Recommended Content and Format of Non-Clinical Bench Performance Testing Information in Premarket Submissions," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommended-content-and-format-non-clinical-bench-performance-testing-information-premarket. In the event that an applicant is appropriately declaring conformity with a voluntary consensus standard that FDA has recognized pursuant to section 514(c) of the FD&C Act to meet applicable requirements, it may not be necessary to submit full test reports with respect to those requirements. Refer to Item I.1.a of this Checklist; see also FDA's guidance "Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/appropriate-use-voluntary-consensus-standards-premarket-submissionsmedical-devices.	☐	☐	☐	

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
Comments:				
The submission includes, as appropriate: 1. **Reprocessing and Sterilization:** If device is intended to be sterile or is reusable: a. Identification of the components and/or accessories for which reprocessing and/or sterilization are applicable. b. Sterilization method, parameters, validation method, and Sterility Assurance Level (SAL). c. Reprocessing information, including the protocols and test reports of the validation of the reprocessing instructions (see the FDA guidance document entitled, "Reprocessing Medical Devices in Health Care Settings: Validation Methods and Labeling," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/reprocessing-medical-devices-health-care-settings-validation-methods-and-labeling). d. Pyrogenicity test information for the following: i. implants; ii. devices in direct or indirect contact with the cardiovascular system, the lymphatic system, or cerebrospinal fluid (CSF), regardless of duration of contact; or iii. devices labeled "non-pyrogenic." e. Packaging information, including materials and package test methods.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
The submission includes, as appropriate: 2. **Shelf Life:** a. An evaluation to establish that device performance is not adversely affected by aging, or a rationale for why the storage conditions are not expected to affect device safety or effectiveness. **OR** b. A proposed shelf life, as well as an evaluation to establish that device safety and effectiveness will not be adversely affected throughout the proposed shelf life. The submission may include only a summary of the evaluation methods used, if a justification for omission of a protocol and complete test report is provided in accordance with 21 CFR 860.220(c).	☐	☐	☐	
Comments:				
The submission includes, as appropriate: 3. **Biocompatibility:** If the device includes patient-contacting components: a. Identification of each patient-contacting device component and associated materials of construction. b. Identification of contact classification (e.g., surface-contacting, less than 24-h duration) for each patient-contacting device component (e.g., implant, delivery catheter). c. Biocompatibility assessment of patient-contacting components.	☐	☐	☐	
Comments:				
The submission includes, as appropriate: 4. **Electrical Safety and Electromagnetic Compatibility:** Electrical safety and/or electromagnetic compatibility evaluation, including: a. Evaluation of electrical safety (e.g., per IEC 60601-1 or equivalent FDA-recognized standard), **OR** evaluation using alternate methods or standards with a rationale. b. Evaluation of electromagnetic compatibility (e.g., per IEC 60601-1-2 or equivalent FDA-recognized standard), **OR** evaluation using alternate methods or standards with a rationale.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
H. Software				
1. For all devices that incorporate software, all relevant software information and testing is provided, including: a. Software level of concern and rationale for the software level of concern. c. Appropriate device hazard analysis, hardware, and system information as described in the FDA guidance document entitled, "Guidance for the Content of Premarket Submissions for Software Contained in Medical Devices," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-content-premarket-submissions-software-contained-medical-devices, **OR** an alternate approach to such documentation with a rationale.	☐	☐	☐	
Comments:				
I. Standards and Declarations of Conformity				
1. Does the De Novo request utilize voluntary consensus standards? (See section 514(c) of the FD&C Act). *This includes both FDA-recognized and non-recognized consensus standards.*	☐	☐		
a. The submission cites FDA-recognized voluntary consensus standard(s)	☐		☐	
i. The submission includes a Declaration of Conformity (DOC) as outlined in FDA's guidance "Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/appropriate-use-voluntary-consensus-standards-premarket-submissions-medical-devices. **OR** ii. If citing general use of a standard, the De Novo request provides information to demonstrate how the device meets, or justify any deviation from, the referenced standard.	☐	☐		
b. The submission cites non-FDA-recognized voluntary consensus standard(s)	☐		☐	
i. The De Novo request provides information to demonstrate how the device meets, or justify any deviation from, the referenced standard.	☐	☐		
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
J. Animal: The De Novo request provides the results as well as a protocol and complete test report for each animal study provided.	☐	☐	☐	
Comments:				
1. Each study includes a statement that the study was conducted in compliance with the Good Laboratory Practice (GLP) for Nonclinical Laboratory Studies regulation (21 CFR part 58), **OR** if the study was not conducted in compliance with the GLP regulation, a brief statement of the reason for the noncompliance.	☐	☐	☐	
Comments:				
K. Clinical: The De Novo request contains results of each clinical investigation of the device, including for each investigation:	☐	☐	☐	
Comments:				
1. Study protocols. (If performed under an approved IDE application submitted under 21 CFR 812.20, this should be the final FDA-approved version of the clinical study protocol, incorporating any Notices of Changes.)	☐	☐	☐	
Comments:				
2. Number of investigators and subjects per investigator.	☐	☐	☐	
Comments:				
3. Investigation design, including study population and investigation period.	☐	☐	☐	
Comments:				
4. Subject selection and exclusion criteria.	☐	☐	☐	
Comments:				
5. Tabulations of data from individual subject report forms.	☐	☐	☐	
Comments:				
6. Effectiveness data.	☐	☐	☐	
Comments:				
7. Safety data, including all adverse reactions and complications, deaths, subject discontinuations and subject complaints, device failures (including unexpected software events if applicable), and replacements.	☐	☐	☐	
Comments:				
8. Copies of individual subject report forms for patients who died or who did not complete the investigation. Check "N/A" only if no patients died or were discontinued.	☐	☐	☐	

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
Comments:				
9. A statement that each investigation has been completed per the protocol or a summary of any protocol deviations.	☐	☐	☐	
Comments:				
10. The results of any statistical analyses performed.	☐	☐	☐	
Comments:				
11. Contraindications, warnings, precautions, and other limiting statements relevant to the use of the device type, based on the clinical investigation.	☐	☐	☐	
Comments:				
12. If a De Novo request relies primarily on data from a single investigator at one investigation site, a justification showing that these data and other information are sufficient to reasonably demonstrate the safety and effectiveness of the device when subject to general controls or general and special controls, and to ensure that the results from a site are applicable to the intended population.	☐	☐	☐	
Comments:				
13. A discussion of how the investigation data represent clinically significant results, pursuant to 21 CFR 860.7(e).	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
14. Statements of Compliance for Clinical Investigations Select "N/A" if the submission does not contain any clinical data from investigations (as defined in 21 CFR 812.3(h)) to support the recommended classification. For multicenter clinical investigations involving both United States (US) and outside the United States (OUS) sites, part (a) should be addressed for the US sites, and part (b) should be addressed for the OUS sites. 21 CFR 812.28 applies to all OUS clinical investigations that enroll the first subject on or after February 21, 2019. Please refer to the guidance document entitled "Acceptance of Clinical Data to Support Medical Device Applications and Submissions - Frequently Asked Questions," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/acceptance-clinical-data-support-medical-device-applications-and-submissions-frequently-asked, for more information.	☐		☐	
a. For each clinical investigation conducted in the US, the De Novo request includes either a statement that the investigation was conducted in compliance with 21 CFR parts 50, 56, and 812 (or, with respect to part 56, that it was not subject to the regulations under 21 CFR 56.104 or 56.105), **OR** a brief statement of the reason for noncompliance with 21 CFR parts 50, 56, and/or 812. Select "N/A" if the clinical investigations were conducted solely OUS.	☐	☐	☐	

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
b. For each clinical investigation conducted OUS, the De Novo request includes a statement that the clinical investigations were conducted in accordance with good clinical practice (GCP) as described in 21 CFR 812.28(a)(1), **OR** a waiver request in accordance with 21 CFR 812.28(c), **OR** a brief statement of the reason for not conducting the investigation in accordance with GCP and a description of steps taken to ensure that the data and results are credible and accurate and that the rights, safety, and well-being of subjects have been adequately protected. Select "N/A" if the clinical investigations were conducted solely inside the US.	☐	☐	☐	
Comments:				
L. Financial Disclosure Information				
1. For a De Novo request that includes clinical studies, financial disclosure information is provided. As required by 21 CFR part 54, the requester must either provide: • a signed and dated Certification Form (Form FDA 3454); or • a signed and dated Disclosure Form (Form FDA 3455). For additional information, see the FDA guidance document entitled "Financial Disclosure by Clinical Investigators," available at https://www.fda.gov/regulatory-information/search-fda-guidance-documents/financial-disclosure-clinical-investigators.	☐	☐	☐	
Comments:				
a. For a Certification Form (Form FDA 3454): Is the required list of all investigators and sub-investigators attached to the form?	☐	☐	☐	
Comments:				
b. For a Certification Form (Form FDA 3454): If box (3) is checked, does the form include an attachment with the reason(s) why financial disclosure information could not be obtained?	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
c. For a Disclosure Form (Form FDA 3455): Does the requester provide details of the financial arrangements and interests of the investigator(s) or sub-investigator(s), along with a description of any steps taken to minimize potential bias?	☐	☐	☐	
Comments:				
M. Other Information				
1. A bibliography of all published reports, outside of the data described above, whether adverse or supportive, known to or that should reasonably be known to the requester and that concern the safety or effectiveness of the device. If there are no additional published reports, include a statement to that effect to justify their omission.	☐	☐		
Comments:				
2. An identification, discussion, and analysis of any other data, information, or report relevant to an evaluation of the safety and effectiveness of the device known to or that should reasonably be known to the requester from any source, foreign or domestic, including information derived from investigations other than those in the request and from commercial marketing experience.	☐	☐	☐	
Comments:				

Elements of a Complete De Novo Request				
Check "Yes" if item is present, "N/A" if it is not needed, and "No" if it is not included but needed. ***Requesters including the checklist with their De Novo request should identify the page numbers where requested information is located. Use the comments section for an element if additional space is needed to identify the location of supporting information.**	**Yes**	**No**	**N/A**	***Page #**
N. In Vitro Diagnostic (IVD) Devices: If the device is an IVD, the labeling submitted in the De Novo request provides information describing the performance characteristics of the device, including as appropriate, such things as: 1. Precision/reproducibility 2. Accuracy 3. Specificity 4. Sensitivity (detection limits, Limit of Blank (LoB), Limit of Detection (LoD), Limit of Quantitation (LoQ) where relevant for the device type). The technical sections of the De Novo request provide the results of the studies, as well as associated protocols and line data, corresponding to the information on performance characteristics of the device (such as precision/reproducibility, accuracy, specificity, and sensitivity), including, as appropriate, linearity, calibrator or assay traceability, calibrator and/or assay stability protocol and acceptance criteria, assay cut-off, method comparison or comparison to clinical outcome, matrix comparison, and clinical reference range or cutoff.	☐	☐	☐	
Comments:				
O. Labeling				
1. The De Novo request includes labels, labeling, and advertisements sufficient to describe the device, its intended use, and the directions for its use. Where applicable, photographs or engineering drawings must be supplied. See 21 CFR parts 801 and 809, as applicable.	☐	☐	☐	
Comments:				