

Policy 33: IND

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Researchers who employ a test article classified by the Food and Drug Administration as an investigational new drug must comply with the FDA's IND regulations ([21 CFR 312](#)). The IND number assigned to the test article must be filed with the IRB when the application for review is submitted.

The IRB Coordinator reviews the application for the IND number and documents this review on the New Protocol Submission Coordinator Stage. When the research involves the use of a drug other than the use of a marketed drug in the course of medical practice, the IRB Chair confirms that the drug either has an IND or the protocol meets one of the FDA exemptions from the requirement to have an IND. If a protocol involves a drug and does not include an IND number, the IRB Chair completes the xForm 145 to determine whether the proposed activity is exempt from the requirement to submit an IND application to the FDA. If an IND number is required, the IRB Coordinator forwards a written request to the PI requesting documentation of a valid IND number and enters a "More Information" event in IRBManager. The proposal will not be forwarded for review until a valid IND number is present. The IND goes into effect 30 days after the FDA receives the IND, unless the sponsor receives earlier notice from the FDA.

Validation of an IND will be done by determining that the IND number matches the Sponsor protocol, communication from the Sponsor, or communication from the FDA. In the case of a Researcher who holds the IND, the number must match information provided by the FDA. An investigator's brochure will not be used for validation because one investigator brochure often covers multiple INDs.

Research is exempt from the requirement for an IND if it meets the exemption for approved drugs, the exemption for *in vitro* diagnostic biological products, the exemption for *in vitro* or animal use, if the FDA has granted a determination of exemption, or if the study is a clinical investigation involving use of a placebo if the investigation does not otherwise require submission of an IND.

A. For research to meet the exemption for approved drugs, all of the following must be true:

- a) The drug being used in the research is lawfully marketed in the United States.
- b) The research is not intended to be reported to FDA in support of a new indication for use or to support any other significant change in the labeling for the drug.
- c) The research is not intended to support a significant change in the advertising for the product.
- d) The research does not involve a route of administration or dosage level, use in a subject population, or other factor that significantly increases the risks (or decreases the acceptability of the risks) associated with the use of the drug product.
- e) The research is conducted in compliance with FDA requirements for IRB review and informed consent and all of the following are true:
 - The participant or the participant's representative will date the consent document.
 - Consent documents include a statement that notes the possibility that the FDA may inspect the records.
 - The requirement for informed consent will not be waived.
 - The requirement to obtain written documentation of informed consent will not be waived because the only record linking the participant and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality.
- f) The research is conducted in compliance with all of the following:
 - The sponsor or investigator, or any person acting on behalf of the sponsor or investigator, will not represent in a promotional context that an investigational new drug is safe or effective for the purposes for which it is under investigation or otherwise promote the drug.
 - The sponsor or investigator will not commercially distribute or test market the drug.
 - The sponsor will not unduly prolong an investigation after finding that the results of the investigation appear to establish sufficient data to support a marketing application.
 - The sponsor will not charge for the drug in the clinical trial without the prior written approval of FDA.
- g) The research does not request a waiver from the requirement for informed consent.

B. For research to meet the exemption for *in vitro* diagnostic biological products, all of the following must be true:

- a) The research involves one of the following:
 - Blood grouping serum
 - Reagent red blood cells
 - Anti-human globulin
- b) The article will be used in a diagnostic procedure that confirms the diagnosis made by another, medically established, diagnostic product or procedure.
- c) The article is shipped in compliance with §312.160.

C. For research to meet the exemption for *in vitro* or animal use, all of the following must be true:

- a) The drug intended solely for tests in vitro or in laboratory research animals.
- b) The drug is shipped in compliance with §312.160.

D. For research to meet the exemption by FDA determination, the research must have been submitted to the FDA who has determined in writing that an IND is not required.

E. For research to meet the fifth exemption, the study must be a clinical investigation involving use of a placebo IF the investigation does not otherwise require submission of an IND.

The IRB requires detailed discussion of all these points when an exemption from IND requirements is requested.

When an investigator is also serving as the sponsor in an IND study, the following criteria must be met:

The PI must meet with the VPR, Director HRPP, and IRB Chair/Vice Chair for review of the following BEFORE final IRB approval is issued.

In that session, the following will be reviewed:

1. Documentation of the IND application and FDA correspondence (21 CFR 312.20)
2. PI's understanding of the investigational status of drug/biologic and the requirements for accountability (including plan for accurate tracking and record keeping, plan for preparation (as applicable), storage, dispensing, and destruction of investigational drug)(321 CFR 312.57, 312.59, and 312.62)

3. PI's plan to select, train and supervise personnel throughout the trial (21 CFR 312.53) Include plan to provide critical information to study staff when applicable (21 CFR 312.55)
4. Plan for monitoring of the study (21 CFR 312.56)
5. PI's awareness and understanding of his/her responsibilities associated with being an investigator and sponsor of a clinical trial conducted under an IND.
6. Case Report Form
7. Plan to comply with reporting obligations (21 CFR 312.57, 312.30, 312.31, 312.32, 312.33, 312.56, 312.64)
8. Regulatory binder
9. FDA Guidance for Industry Investigator Responsibilities, October 2009

In addition, an on-site compliance audit will be conducted on at least an annual basis as a condition of continuing review (audit to focus on compliance with FDA rules)

The audit will include:

1. Review of amendments to the IND (21 CFR 312.30 and .31)
2. Safety reports to FDA (21 CFR 312.32 and 312.64)
3. Annual report to FDA (21 CFR 312.33)
4. UPIRTSOs and reporting to FDA and IRB (21 CFR 312.64)
5. Qualifications of any new study staff (21 CFR 312.53)
6. Records of study supervision (21 CFR 312.53)
7. Records of staff training (21 CFR 312.55)
8. Informed consent records (21 CFR 312.66)
9. Records of any study monitoring (21 CFR 312.56)
10. Investigational drug records (21 CFR 312.59 and .62)
11. Participant records (case history, source documents, case report forms) (21 CFR 312.62)
12. Record storage plans (21 CFR 312.62)
13. IRB approval documents (21 CFR 312.66)

IRB Coordinator enters an IND event in IRBManager at the time of initial or continuing approval noting the need for audit prior to next continuing review.