De Novo Classification Requests

FDA Small Business
Regulatory Education for Industry (REdI)
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Is this a PMA Device?

Learning Objectives

- Describe the legal basis for De Novo classification
- Identify the criteria for determining if a device is eligible for the De Novo pathway
- Describe the overall De Novo review process
- Identify recent changes to the De Novo classification process and new resources

Poll Question

What experience do you have with De Novo classification requests?

A. No experience

B. Submitted a Pre-submission to obtain feedback on a future De Novo request

C. Currently preparing a De Novo request

D. Submitted a De Novo request

What Is a De Novo Request?

What Is a De Novo Request?

1. A type of premarket submission (marketing authorization)

2. Intended for new device types that are automatically classified into Class III ("Evaluation of automatic class III designation")

3. Request to classify a new device type into Class I or Class II (risk-based approach)

4. If granted, creates a new classification regulation for the new device type

Eligibility

What kinds of devices may be granted through De Novo?

Eligibility

- **Must be a medical device**
  - (Section 201(h) of FD&C Act)
- **Must not fit into any existing classification regulation**
  - No predicate device (NSE)
  - Doesn't fit into existing Class I/II regulation
  - Doesn't fit into existing Class III regulation
- **No approved PMA(s) for the same device type**

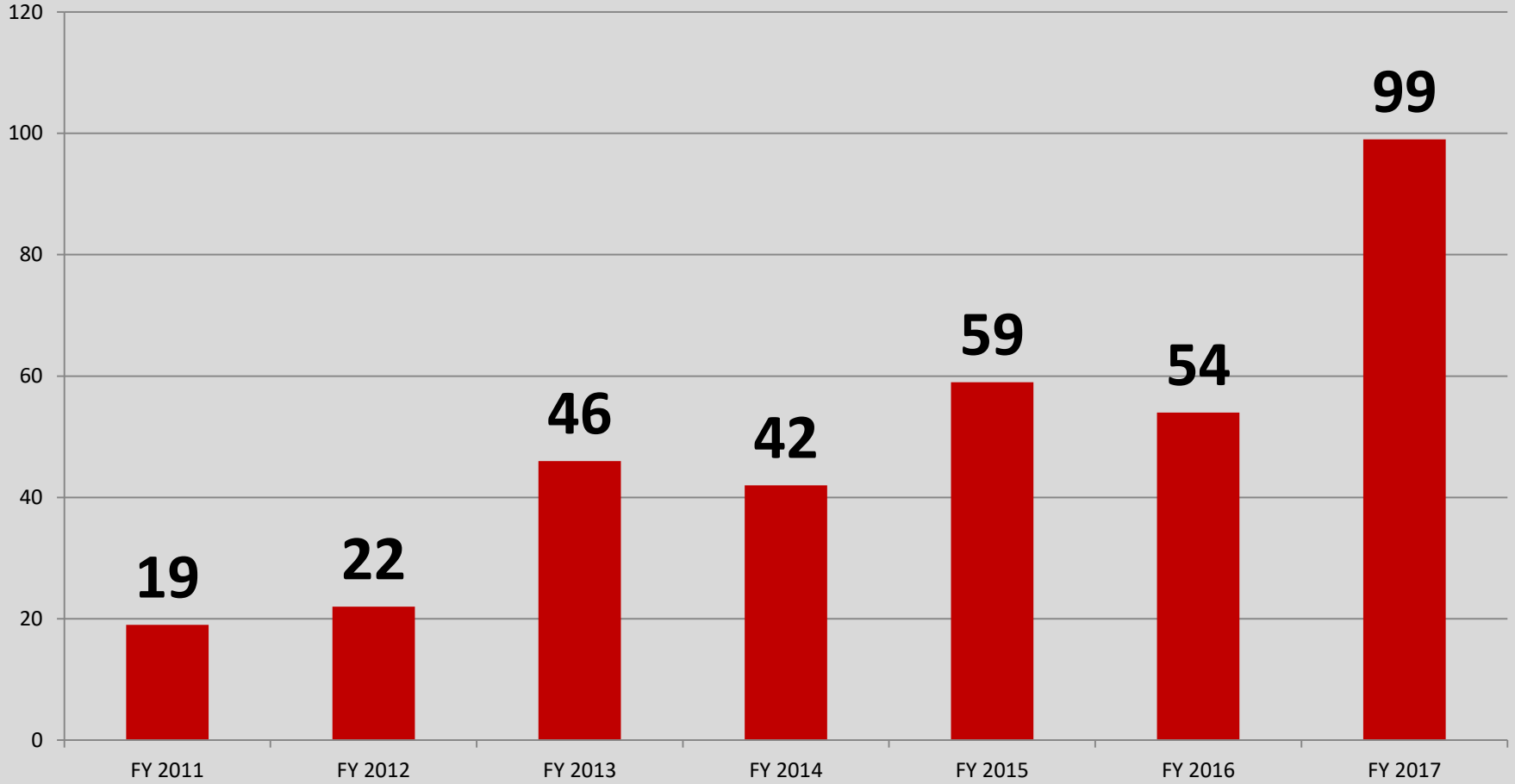
DEN150010 – DigniCap™

DEN150010 – DigniCap™

- Indicated to reduce the likelihood of chemotherapy-induced alopecia in women with breast cancer
- Liquid coolant circulates through cap to reduce scalp temperature
- Scalp temperature is computer controlled and monitored

No predicate devices… but eligible for De Novo!

Total De Novos Received in CDRH



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De Novo Review Process

De Novo Review Process

Classification Goals

1. Identify probable risks to health for the device
2. Determine level of control needed to mitigate risks:
   - general controls only = *Class I*
   - general controls + special controls = *Class II*
3. Determine if probable benefits outweigh probable risks

These provide reasonable assurance of safety and effectiveness.

De Novo Review Process

- Goal → Review in 150 FDA days
- Two review cycles (~75 days each)
- Can request Additional Information
- Final decision: **grant** or **decline**

De Novo Review Process

Initial review (e.g., eligibility)

Substantive review

Internal Office-level briefing

Issue letter

De Novo Review Process

Risk/Mitigation (R/M) Table

Identified Risk	Mitigation Measure
Infection	• Cleaning Validation • Labeling
Adverse Tissue Reaction	• Biocompatibility Testing
Skin Overheating / Burn	• Clinical Performance Testing • Non-clinical Performance Testing • Software Verification, Validation & Hazards Analysis • Labeling
Electromagnetic Interference / Electrical Shock	• Electromagnetic Compatibility Testing • Electrical Safety Testing • Labeling
Worsening Aesthetic Outcomes	• Clinical Performance Testing

De Novo Review Process

- **Special Controls (for Class II devices)**
  - Legally required
  - Written into the new classification regulation
  - Each special control maps back to R/M table
  - **Your device MUST meet all identified special controls before it may be granted**

Special Controls (examples)

1. Non-clinical performance data must demonstrate that the device meets all design specifications and performance requirements. The following performance characteristics must be tested: over-heating, power accuracy radiofrequency, pulse cycle, waveform, pulse duration, and device characterization parameters.
2. The patient-contacting components of the device must be demonstrated to be biocompatible.
3. Labeling must include:
    a. Information on how the device operates and the typical course of treatment;
    b. A shelf life; and
    c. Validated methods and instructions for reprocessing any reusable components.

De Novo Review Process

- **New Classification Regulation**
  - Name of regulation (name of device type)
  - Identification
    - Intended use(s)
    - Key technological characteristics
  - Regulation number (e.g., 21 CFR 878.XXXX)

De Novo Review Process

- **Regulation**
  - **Number:** *21 CFR 878.4420*
  - **Name**: *Electrosurgical device for over-the-counter (OTC) aesthetic use*
  - **Identification:** *An electrosurgical device for over-the-counter (OTC) aesthetic use is a device using radiofrequency energy to produce localized heating within tissues for OTC non-invasive aesthetic use.*

De Novo Review Process

After a De Novo is granted

1. **New device may be legally marketed**
   - Subject to applicable requirements
2. **New device may be used as a predicate device (follows 510(k) process)**
3. **New classification regulation created**

De Novo Review Process

After a De Novo is granted

4. **FDA sends and publishes granting order**
5. **FDA publishes Transparency Summary**
6. **FDA publishes notice in Federal Register**

De Novo Program Updates

History and Evolution

FDAMA (1997)

Created De Novo pathway (Section 513(f)(2) of FD&C Act)

FDASIA (2012) MDUFA III

Added Direct De Novo option

21st Century Cures (2016)

Removed 30-day requirement for post-NSE De Novo requests

FDARA (2017) MDUFA IV

Added user fees and performance goals

21st Century Cures Act (2016)

- Removed 30-day requirement for post-NSE De Novo requests
- Clarifies combination products may be classified through De Novo pathway

Policy for De Novo classification of combination products under development.

FDARA of 2017/MDUFA IV

- Added user fees for De Novo requests
- Added performance goals
- Refuse to Accept (RTA) guidance

FDARA of 2017/MDUFA IV

De Novo User Fees

- Standard fee = 30% of PMA user fee
- Small business fee = 25% of standard fee

User Fee	FY 2018
Standard Fee	$93,229
Small Business Fee	$23,307

FDARA of 2017/MDUFA IV

De Novo Performance Goals

- Based on 150 FDA days
  - Different than statutory deadline of 120 FDA days
- Based on % of De Novo requests reaching final decision (grant or decline)

Percentage of De Novos with Final Decision by Day 150				
FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
50%	55%	60%	65%	70%

New Guidance Documents

De Novo Classification Process (Evaluation of Automatic Class III Designation)

a.k.a. "De Novo Program Guidance"

Acceptance Review for De Novo Classification Requests (DRAFT)

a.k.a. "*Draft* De Novo Refuse-to-Accept (RTA) Guidance"

De Novo Program Guidance

- **Purpose: Provide overview of De Novo classification pathway and FDA review process**
- Summarizes legal foundation and statutory changes
- Explains De Novo eligibility
- Emphasizes the importance of early interaction
- Identifies recommended content
- Explains what happens when De Novo is granted

De Novo Program Guidance

Early Interaction (Pre-Submission)

- Verify product is eligible for De Novo
- Identify valid scientific evidence needed to support future De Novo request
- Establish working relationship with FDA

De Novo Program Guidance

Recommended Content

- Attachment 2 of guidance document
- Identifies key sections and recommended information/data
- May incorporate information by reference (e.g., reference to testing submitted in a previous 510(k))

De Novo Program Guidance

Recommended Content

- Classification Summary (Eligibility)
  - Conduct search of legally marketed devices and classification regulations of the same type
  - Provide a list of potentially similar classification regulations, cleared 510(k)s, approved PMAs, and/or product codes

De Novo Program Guidance

Recommended Content

- Classification Summary (Eligibility)
  - Explain why the subject device is different from and/or does not fit within anything identified, for example:
    - New intended use
    - Different technological characteristics raising different safety/effectiveness questions
    - Different risks to health

De Novo Program Guidance

Recommended Content

Identified Risk	Recommended Mitigation Measures	Supporting Data Contained in De Novo
EXAMPLE: Adverse tissue reaction	Specified Biocompatibility Testing Requirements (special control)	Testing in compliance with recognized standard (Section XX, page XXX)
EXAMPLE: Device failure due to XXX (mechanical failure, software anomaly, use error, etc.)	Specified Non-clinical Testing (special control), Device Specific Labeling Requirements (special control), Medical Device Reporting (MDR) (general control)	Test protocols and results (Section XX, pages XXX) Draft device labeling (Section XX, pages XXX)
EXAMPLE: Failure to properly interpret test results	Device Specific Labeling Requirements (special control)	Draft device labeling (Section XX, pages XXX)

Draft De Novo RTA Guidance

- **Purpose: Ensure De Novo request is acceptable for substantive review**
- MDUFA IV commitment
- Facilitates efficient and timely review
- Similar to RTA policies for 510(k) and PMA

Draft De Novo RTA Guidance

Appendix A	Appendix B
Acceptance Checklist	**Recommended Content Checklist**
Required	Not Required
Examples: Intended use Device description Proposed special controls (if recommending class II)	*Examples:* Prior submissions Classification summary (eligibility) Device labeling

Draft De Novo RTA Guidance

- Not in effect at this time
- For comment purposes only
- Anticipate final guidance in early 2019

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Resources

Resources

- De Novo Classification Process (Evaluation of Automatic Class III Designation) www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM080197.pdf

- Acceptance Review for De Novo Classification Requests (DRAFT) www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM582251.pdf

Resources

- User Fees and Refunds for De Novo Classification Requests
  www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM576306.pdf

- FDA and Industry Actions on De Novo Classification Requests: Effect on FDA Review Clock and Goals
  www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM576305.pdf

Resources

- CDRH Device Advice – De Novo
  www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/PremarketSubmissions/ucm462775.htm

- De Novo Classification Requests Database
  www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpmn/denovo.cfm

Summary

- De Novo classification is an alternative to the PMA pathway that allows novel, innovative devices to be legally marketed.
- A granted De Novo request creates a new classification regulation (new device type) and authorizes marketing of your device.
- The content of your De Novo request will determine if sufficient information exists to classify your device into Class I or Class II.
- Use the Pre-submission process and public domain information to develop your De Novo request.

Questions

Please evaluate this session:

surveymonkey.com/r/DEV-D1S05

Your Call to Action

- Familiarize yourself with the many new and updated De Novo resources.

- The De Novo pathway may be a way to get novel and innovative medical devices onto the market faster.


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