Acceptance Review for De Novo Classification Requests

Draft Guidance for Industry and Food and Drug Administration Staff

DRAFT GUIDANCE

This draft guidance document is being distributed for comment purposes only.

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Preface

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Acceptance Review for De Novo Classification Requests

Draft Guidance for Industry and Food and Drug Administration Staff

This draft guidance, when finalized, will represent the current thinking of the Food and Drug Administration (FDA or Agency) on this topic.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

The purpose of this draft document is to explain the procedures and criteria FDA intends to use in assessing whether a request for an evaluation of automatic class III designation (De Novo classification request or De Novo request) meets a minimum threshold of acceptability and should be accepted for substantive review.[1]

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),[2] FDA agreed to performance goals based on the timeliness of reviews, as well as 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). Acceptance review therefore takes on additional importance in both encouraging incoming quality applications from De Novo requesters and allowing the Agency to appropriately concentrate resources on complete applications.

FDA's guidance documents, including this draft guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are

[1] 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/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm273903.pdf.

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

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 draft document is intended to provide De Novo requesters with transparency regarding the types of information FDA believes are necessary to conduct a substantive review for a De Novo request. To enhance consistency, the document, when finalized, will provide FDA staff with a clear, consistent approach to making "Accept" or "Refuse to Accept" (RTA) decisions on De Novo requests.

The acceptance review policy does not alter the process by which devices are classified in a De Novo request once accepted for substantive review; however, it does 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, demonstrate 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 in assessing whether a De Novo request meets a minimum threshold of acceptability and should be accepted for substantive review. This document includes both an Acceptance Checklist (**Appendix A**. Acceptance Checklist for De Novo Classification Requests) as well as a Recommended Content Checklist (**Appendix B**. Recommended Content Checklist for De Novo Classification Requests), as explained in further detail below.

FDA recognizes and anticipates that the Agency and industry may need up to 60 days to perform activities to operationalize the policies within the guidance, when finalized. If all criteria necessary to meet a minimum threshold of acceptability for De Novo requests as outlined in this guidance, when finalized, are not included in a De Novo request received by FDA before or up to 60 days after the publication of this guidance, when finalized, CDRH staff does not generally intend to refuse to accept.

III. De Novo Acceptance Review Policies and Procedures

A. Acceptance Review Policies and Procedures

FDA staff will conduct an acceptance review of all De Novo requests based on objective criteria using the Acceptance Checklist (see **Appendix A**. Acceptance Checklist for De Novo Classification Requests) to ensure that the De Novo request is administratively complete to permit a substantive review. For the De Novo request to be accepted, all administrative elements identified as acceptance items 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, which occurs prior to the substantive review, 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 appropriate user fee has been paid and a validated eCopy has been received.[3]

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 of the information identified as RTA items in the Acceptance Checklist.

The purpose of the acceptance review is to assess whether a De Novo request is administratively complete, which helps ensure that it includes all of the information necessary for FDA to conduct a substantive review. Therefore, the De Novo request 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 is administratively complete to allow the De Novo request to be accepted. 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 one or more items noted as RTA items on the Acceptance Checklist are not present, FDA staff conducting the acceptance review should obtain management concurrence and notify the designated De Novo contact person electronically[4] that the De Novo request has not been accepted. FDA staff should 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. The De Novo requester should submit this information to the respective Center's Document Control Center (DCC) to be included in the file under the originally assigned De Novo number. 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

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[3] For additional information, please see 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/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm576305.pdf.

[4] For additional information about email communications with CBER, please see "SOPP 8119: Use of Email for Regulatory Communications," available at https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/ProceduresSOPPs/ucm109645.htm.

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 per the Acceptance Checklist. If a 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.

Upon receipt of the newly submitted information, FDA staff should conduct the acceptance review again following the same procedure within 15 calendar days of receipt of the new information. The subsequent 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 the new checklist indicating the missing item(s).

When a De Novo request is accepted, 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), the De Novo requester should be electronically notified that the acceptance review was not completed and the De Novo request is under substantive review. FDA may request any information that may have resulted in an RTA designation during the substantive review.[5] 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.

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, provided the user fee has been paid and a validated eCopy has been provided. Thus, the FDA review clock does not start when a De Novo request is placed on eCopy or User Fee hold or designated RTA.

De Novo requests and additional information submitted in response to a 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

[5] In the case of a government closure during the 15-day 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.

substantive review, and the FDA review clock start date will be the DCC receipt date of the most recently received information 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[6] 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 conducted, a notification that an RTA review was not conducted 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 will not be posted publicly. Therefore, it is imperative that the De Novo request identify complete contact information, including the email address to which the notification should be sent.[7]

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 assess whether the De Novo request contains all of the appropriate elements, as identified in the Acceptance Checklist, in order to begin 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 in order to conduct a substantive review (i.e., FDA should not refuse to accept a De Novo request if information is

[6] 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).

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

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 is it 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 requested 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. FDA does not intend for the applicant to have addressed these items in their De Novo request. Depending upon the answers to these preliminary questions, the remainder of the acceptance review may or may not be necessary.

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[8] the FDA 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:

[8] 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 the Federal Food, Drug, and Cosmetic Act (FD&C Act) and (b) a validated eCopy is provided. Because any De Novo request not meeting these two requirements will not be processed by the CDRH or CBER DCC, these requirements are not included in the checklist.

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 Liaison to determine the appropriate action and inform Division 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 that more information is needed.

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 Liaison to determine the appropriate action and inform Division 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.

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 Jurisdictional Officer or the CBER Product Jurisdiction Liaison to determine the appropriate action and inform Division management.

4. Is this device type eligible 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 and notify the requester of the determination. This preliminary 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., information must be reviewed to determine if special controls can mitigate the identified risks to health).

5. Is there a pending premarket notification (510(k)) or premarket approval (PMA) application for the same device with the same indications for use?

If the De Novo requester has a pending 510(k) or PMA for the same device with the same indications for use, the De Novo review team should place the De Novo request on administrative hold and work with the De Novo requester to clarify the appropriate regulatory pathway and premarket submission type. The review team should also consult Division 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 Division management and other Center resources if a 510(k) or PMA have been submitted for the same device type by different applicants.

6. Is the requester subject to the Application Integrity Policy (AIP)?[9]

The lead reviewer should refer to the AIP list (https://www.fda.gov/ICECI/EnforcementActions/ApplicationIntegrityPolicy/ucm134453.htm). If the applicant is on the list, the reviewer should consult the CDRH Office of Compliance/Division of Bioresearch Monitoring (OC/DBM) 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. Organizational Elements

Although missing one or more of the items in the table of Organizational Elements in the Acceptance Checklist generally will not lead to an RTA decision, such as a Table of Contents or page numbers, we strongly encourage requesters to incorporate these elements in their De Novo requests to streamline FDA review and decision-making. If, however, the De Novo request is so disorganized that FDA cannot locate RTA items on the Acceptance Checklist needed to classify the subject device, or if the De Novo request is so poorly written that the RTA items on the

[9] 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.)

Acceptance Checklist submitted to support De Novo classification cannot be understood, the De Novo request should receive an RTA decision.

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

The objective criteria in the Acceptance Checklist outlines 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.

C. 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.

D. 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 807.87(i)) only apply to De Novo requests with clinical data. If the De Novo request contains no clinical data, FDA staff should select "N/A."

E. 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 in the course of the substantive review. For example, the requester may have provided summary 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.

F. 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.

VII. Recommended Content Checklist

A. Purpose

Appendix B. Recommended Content Checklist for De Novo Classification Requests provides additional content recommendations to De Novo requesters. These content elements are based on information commonly identified as missing or deficient during the substantive review of a De Novo request and typically included in requests for additional information. While these elements are not considered in the RTA process, De Novo requests without the recommended information may require additional time to conduct a substantive review, may be placed on hold to request additional information in order to complete the substantive review, or may be more likely to receive a "decline" decision.

De Novo requesters who choose to incorporate these content recommendations are encouraged to complete and submit the Recommended Content Checklist with the De Novo request that identifies the location of supporting information for each recommended content element.

B. 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). In some cases, the requester may also have received a prior decline order for the same device. When such prior feedback relevant to De Novo classification of the subject device exists, we recommend the De Novo request include information to address this prior feedback and the checklist includes criteria related to this issue. 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 checklist criterion regarding whether a prior submission exists, FDA recommends that requesters provide this information in Section F of the CDRH Premarket Review De Novo

request Cover Sheet form (Form 3514, https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM080872.pdf). 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)).

Appendix A. Acceptance Checklist for De Novo Classification Requests

(Should 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:

Branch: **Division:** **Center/Office:**

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 Jurisdictional Officer or the CBER Product Jurisdiction Liaison to determine the appropriate action, and inform Division management. *Provide a summary of the Jurisdictional Officer's/Liaison'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 Jurisdictional Officer or the CBER Product Jurisdiction Liaison to determine the appropriate action and inform your division management. *Provide a summary of the Jurisdictional Officer's/Liaison'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 Jurisdictional Officer or the CBER Product Jurisdiction Liaison to determine the appropriate action and inform your division management. *Provide summary of Jurisdictional Officer's/Liaison's determination.* If the answer to either question above is no, mark "No." If there was no RFD, mark "N/A."	☐	☐	☐
Comments:			
4. Is this device type eligible for De Novo classification? 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), you should consult with the appropriate CDRH or CBER staff during the acceptance review. If the device type is not eligible for De Novo classification, mark "No."	☐	☐	☐
Comments:			
5. Is there a pending 510(k) or PMA for the same device with the same indications for use? If yes, consult Division management and the appropriate CDRH or CBER staff to determine the appropriate action.	☐	☐	☐
Comments:			
6. Is the requester subject to the Application Integrity Policy (AIP)? If yes, consult with the CDRH Office of Compliance/Division of Bioresearch Monitoring (OC/DBM) 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/ICECI/EnforcementActions/ApplicationIntegrityPolicy/ucm134453.htm.	☐	☐	☐
Comments:			

- If the answer to 1 or 2 appears to be "No," then stop review of the De Novo request and issue the "Original Jurisdictional Product" letter.

- If the answer to 3a or 3b appears to be "No," then stop the review and contact the CDRH Jurisdictional Officer or CBER Office of Jurisdiction Liaison.
- If the answer to 4 is "No", the lead reviewer should consult Division management and other Center resources to determine the appropriate action.
- If the answer to 5 is "Yes," then stop review of the De Novo request, contact the appropriate CDRH or CBER staff.
- If the answer to 6 is "Yes," then contact CDRH/OC/DBM or CBER/OCBQ/DIS/BMB, provide a summary of the discussion with DBM or BMB Staff, and indicate their recommendation/action.

Organizational Elements Failure to include these items should not result in an RTA designation.			
***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**	***Page #**
1. De Novo request contains a Table of Contents.	☐	☐	
Comments:			
2. Each section is labeled (e.g., headings or tabs designating Device Description section, Classification Information and Supporting Data, etc.).	☐	☐	
Comments:			
3. 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:			

Elements of a Complete De Novo Request
• 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. Administrative Information				
1. De Novo request contains a description of the device's intended use, with prescription (Rx) and/or over-the-counter (OTC) use designated (see also 21 CFR 801.109 and FDA's guidance document entitled, "Alternative to Certain Prescription Device Labeling Requirements," available at https://www.fda.gov/RegulatoryInformation/Guidances/ucm072747.htm).	☐	☐	☐	
Comments:				
B. Device Description				
1. The De Novo request includes descriptive information for the device, including the following:	☐	☐	☐	
a. A description of the technology (features, materials, and principles of operation) for achieving the intended effect. Where necessary to describe the device, include representative engineering drawing(s), schematics, illustrations, photos and/or figures of the device. Alternatively, include a statement that engineering drawings, schematics, etc. are not applicable to the device (e.g., the device is a reagent and figures are not pertinent to describe the device). In lieu of engineering drawings, schematics, 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.	☐	☐	☐	
Comments:				
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:				
c. A list and description of the components, parts, and accessories to be marketed with the device.	☐	☐	☐	

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:				
2. **In Vitro Diagnostic (IVD) Devices:** If the device is an IVD, the De Novo request provides the following descriptions as appropriate: a. Sensitivity (detection limits, Limit of Blank (LoB), Limit of Detection (LoD), Limit of Quantitation (LoQ) where relevant for the device type). b. Analytical specificity.	☐	☐	☐	
Comments:				
C. Classification Information and Supporting Data				
1. The De Novo request provides a description of why general controls or general and special controls provide reasonable assurance of safety and effectiveness.	☐	☐	☐	
Comments:				
2. If classification into class II is recommended, the De Novo request identifies proposed special controls and describes how those special controls provide a reasonable assurance of safety and effectiveness.	☐	☐	☐	
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 #**
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following: 3. **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/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM253010.pdf). 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 #**
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides either of the following: 4. **Shelf Life:** a. A summary of the methods used 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 a summary of the methods used to establish that device safety and effectiveness will not be adversely affected throughout the proposed shelf life.	☐	☐	☐	
Comments:				
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following: 5. **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:				

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 #**
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following: 6. **Software:** a. Software level of concern and rationale for the software level of concern. b. Applicable software documentation provided based on the level of concern 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/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089593.pdf, **OR** an alternate approach to such documentation with a rationale.	☐	☐	☐	
Comments:				
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following: 7. **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:				
8. **Animal:** For each animal study provided in the De Novo request, a statement that the study was conducted in compliance with applicable requirements in 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, the De Novo request explains why the noncompliance would not impact the validity of the study data provided to support the De Novo request.	☐	☐	☐	
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 #**
9. **Literature:** If literature is relied upon in the De Novo request to support the recommended classification, the De Novo request provides a discussion of how each article is applicable in supporting the De Novo request.	☐	☐	☐	
Comments:				
10. **Benefit-Risk:** The De Novo request includes a description 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/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm517504.pdf.	☐	☐	☐	
Comments:				
D. Statements, Certifications, and Declarations of Conformity				
To the extent that the submission relies upon the following information to provide detailed information and reasons for the recommended classification, the De Novo request provides the following: 1. If the De Novo request explicitly cites conformance to any performance standards or voluntary standards, documentation establishing conformance to those standards. Check "N/A" only if no standards are cited.	☐	☐	☐	
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 #**
2. 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 (3454); or • a signed and dated Disclosure Form (3455). For additional information, see the FDA guidance document entitled, "Financial Disclosure by Clinical Investigators" available at https://www.fda.gov/downloads/RegulatoryInformation/Guidances/UCM341008.pdf.	☐	☐	☐	
Comments:				
a. For a Certification Form (3454): Is the required list of all investigators and sub-investigators attached to the form?	☐	☐	☐	
Comments:				
b. For a Certification Form (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:				
c. For a Disclosure Form (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:				

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Appendix B. Recommended Content Checklist for De Novo Classification Requests

The following information is not intended to serve as a comprehensive review. If you choose to incorporate the recommended content into your De Novo request, FDA recommends that you include this completed checklist as part of the De Novo request.

Recommended Elements for a 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. 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 identifies the device trade/proprietary name. FDA recommends use of the CDRH Premarket Review De Novo request Cover Sheet form (Form 3514).	☐	☐	☐	
Comments:				
3. The De Novo request identifies prior related 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, Pre-Submission, IDE, PMA, etc.). **OR** The De Novo request states that there were no prior De Novo requests or related submissions for the subject device. Prior related submissions (or no prior related submissions) for this device should be included in Section F of the CDRH Premarket Review De Novo request Cover Sheet form (Form 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)). For any identified prior related submissions for this De Novo request, address the applicable questions below:	☐	☐	☐	
Comments:				

Recommended Elements for a 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. 510(k) #_____ Have the data presented in the De Novo request taken into account any safety or effectiveness concerns previously communicated during the review of the prior 510(k)(s) or through 510(k) correspondence?	☐	☐	☐	
Comments:				
b. PMA #_____ Have the data presented in the De Novo request taken into account any safety or effectiveness concerns previously communicated during the review of the prior PMA(s) or through PMA correspondence?	☐	☐	☐	
Comments:				
c. De Novo #_____ Have the data presented in the De Novo request taken into account any safety or effectiveness concerns previously communicated during the review of the prior De Novo request(s) or through De Novo correspondence?	☐	☐	☐	
Comments:				
d. IDE #_____ Have the data presented in the De Novo request taken into account any safety or effectiveness concerns previously communicated during the review of prior IDE(s) or through IDE correspondence?	☐	☐	☐	
Comments:				
e. Pre-Submission request #_____ Are all FDA concerns or action items previously presented to the requester in the Pre-Submission feedback or meeting minutes addressed in the De Novo request?	☐	☐	☐	
Comments:				
B. Device Description				
1. The FDA assigned reference number (e.g., 510(k) #) for any medical devices, such as accessories or components, which are labeled to be used with the subject device and are already legally marketed.	☐	☐	☐	
Comments:				
C. Alternative Practices and Procedures				

Recommended Elements for a 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 #**
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.	☐	☐	☐	
Comments:				
D. Classification Summary				
1. The De Novo request includes a classification summary that explains why the subject device is eligible for De Novo classification, including:	☐	☐	☐	
Comments:				
a. The searches used to establish that no legally marketed device of the same type exists.	☐	☐	☐	
Comments:				
b. Based on the searches, a list of the classification regulations, PMAs, 510(k)s, and/or product codes regarding devices that are potentially similar to the subject device.	☐	☐	☐	
Comments:				
c. A rationale explaining how the subject device is different from the devices covered by the classification regulations, PMAs, 510(k)s, and/or product codes identified in the searches.	☐	☐	☐	
Comments:				
E. Classification Information and Supporting Data				
1. The De Novo request includes a summary of the probable risks to health associated with use of the device 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:				
2. The De Novo request includes an executive summary of how the contents of the De Novo request support the recommended class, identification of risks to health and mitigation measures, and proposed general controls or general and special controls. This summary includes all nonclinical and clinical studies provided in support of the De Novo request.	☐	☐	☐	

Recommended Elements for a 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:				
3. The De Novo request provides a summary and full study report* for each nonclinical study provided in the De Novo request. *Full study report includes objective of the test, description of test methods and procedures, study endpoint(s), pre-defined pass/fail criteria, results summary, and discussion of conclusions.	☐	☐	☐	
Comments:				
4. **In Vitro Diagnostic (IVD) Devices:** If the device is an IVD, the De Novo request provides the following studies as appropriate, including associated protocol descriptions, study results, and line data: • Precision/reproducibility. • Accuracy (includes 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:				
5. **Animal:** The De Novo request provides a summary and full study report for each animal study provided, including:	☐	☐	☐	
Comments:				
a. A study protocol which includes all elements as outlined in 21 CFR 58.120.	☐	☐	☐	
Comments:				
b. A final study report which includes all elements outlined in 21 CFR 58.185.	☐	☐	☐	
Comments:				
6. **Clinical:** The De Novo request provides a summary and full study report for each clinical study provided, including:	☐	☐	☐	
Comments:				
a. A final version of the study protocol. (If performed under IDE, this should be the final FDA-approved version of the clinical study protocol, incorporating any Notices of Changes.)	☐	☐	☐	
Comments:				
b. A description of the study population and relationship to the proposed indications for use for the device.	☐	☐	☐	

Recommended Elements for a 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:				
c. Safety data, including all adverse reactions and complications, deaths, patient discontinuations, patient complaints, device failures (including unexpected software events if applicable), and replacements.	☐	☐	☐	
Comments:				
d. Report forms for patients who died or who did not complete the investigation. Check "N/A" only if no patients died or were discontinued.	☐	☐	☐	
Comments:				
e. Study results.	☐	☐	☐	
Comments:				
f. The results of any statistical analyses performed.	☐	☐	☐	
Comments:				
F. Labeling				
1. The De Novo request includes labeling that describes the device, its intended use, and the directions for its use. See 21 CFR parts 801 and 809, as applicable.	☐	☐	☐	
Comments:				
a. Physician labeling May include indications for use; contraindications, warnings, and precautions; and instructions for use.	☐	☐	☐	
Comments:				
b. Patient labeling, if necessary See the FDA guidance document entitled, "Guidance on Medical Device Patient Labeling," available at (https://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm070801.pdf).	☐	☐	☐	
Comments:				
c. Technical/operators manual	☐	☐	☐	
Comments:				

Recommended Elements for a 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 #**
G. Statements, Certifications, and Declarations of Conformity				
1. Documentation is provided to establish that the requester followed the recommendations in applicable cross-cutting FDA guidance or otherwise met applicable statutory or regulatory criteria. Check "N/A" only if no guidance/guidelines are used.	☐	☐	☐	
Comments:				

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