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§ 1270.42 Human tissue offered for import.

(a) When human tissue is offered for entry, the importer of record must notify the director of the district of the Food and Drug Administration having jurisdiction over the port of entry through which the tissue is imported or offered for import, or such officer of the district as the director may designate to act in his or her behalf in administering and enforcing this part.

(b) Human tissue offered for import must be quarantined until the human tissue is released by FDA.

§ 1270.43 Retention, recall, and destruction of human tissue.

(a) Upon a finding that human tissue may be in violation of the regulations in this part, an authorized Food and Drug Administration (FDA) representative may:

(1) Serve upon the person who distributed the tissue a written order that the tissue be recalled and/or destroyed, as appropriate, and upon persons in possession of the tissue that the tissue shall be retained until it is recalled by the distributor, destroyed, or disposed of as agreed by FDA, or the safety of the tissue is confirmed; and/or

(2) Take possession of and/or destroy the violative tissue.

(b) The written order will ordinarily provide that the human tissue be recalled and/or destroyed within 5 working days from the date of receipt of the order and will state with particularity the facts that justify the order.

(c) After receipt of an order under this part, the person in possession of the human tissue shall not distribute or dispose of the tissue in any manner except to recall and/or destroy the tissue consistent with the provisions of the order, under the supervision of an authorized official of FDA.

(d) In lieu of paragraphs (b) and (c) of this section, other arrangements for assuring the proper disposition of the tissue may be agreed upon by the person receiving the written order and an authorized official of FDA. Such arrangements may include providing FDA with records or other written information that adequately assure that the tissue has been recovered, screened,

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tested, processed, stored, and distributed in conformance with part 1270.

(e) Within 5 working days of receipt of a written order for retention, recall, and/or destruction of tissue (or within 5 working days of the agency's possession of such tissue), the recipient of the written order or prior possessor of such tissue shall request a hearing on the matter in accordance with part 16 of this chapter. The order for destruction will be held in abeyance pending resolution of the hearing request.

PART 1271—HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS

Subpart A—General Provisions

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Subpart A—General Provisions**§ 1271.1 What are the purpose and scope of this part?**

(a) *Purpose.* The purpose of this part, in conjunction with §§ 207.20(f), 210.1(c), 210.2, 807.20(d), and 820.1(a) of this chapter, is to create a unified registration and listing system for establishments that manufacture human cells, tissues, and cellular and tissue-based products (HCT/P's) and to establish donor-suitability, current good tissue practice, and other procedures to prevent the introduction, transmission, and spread of communicable diseases by HCT/P's.

(b) *Scope.* (1) If you are an establishment that manufactures HCT/P's that are regulated solely under the authority of section 361 of the Public Health Service Act (the PHS Act), this part requires you to register and list your HCT/P's with the Food and Drug Administration's (FDA's) Center for Biologics Evaluation and Research and to comply with the other requirements contained in this part, whether or not the HCT/P enters into interstate commerce. Those HCT/P's that are regulated solely under the authority of section 361 of the PHS Act are described in § 1271.10.

(2) If you are an establishment that manufactures HCT/P's that are regulated as drugs, devices and/or biological products under section 351 of the PHS Act and/or the Federal Food, Drug, and Cosmetic Act, §§ 207.20(f) and 807.20(d) of this chapter require you to register and list your HCT/P's following the procedures in subpart B of this part. Sections 210.1(c), 210.2, 211.1(b), and 820.1(a) of this chapter require you to comply with the donor-suitability procedures in subpart C of this part and the current good tissue practice procedures in subpart D of this part, in addition to all other applicable regulations.

§ 1271.3 How does FDA define important terms in this part?

The following definitions apply only to this part:

(a) *Autologous use* means the implantation, transplantation, infusion, or transfer of human cells or tissue back into the individual from whom the cells or tissue were recovered.

(b) *Establishment* means a place of business under one management, at one general physical location, that engages in the manufacture of human cells, tissues, and cellular and tissue-based products. "Establishment" includes:

(1) Any individual, partnership, corporation, association, or other legal entity engaged in the manufacture of human cells, tissues, and cellular and tissue-based products; and

(2) Facilities that engage in contract manufacturing services for a manufacturer of human cells, tissues, and cellular and tissue-based products.

(c) *Homologous use* means the replacement or supplementation of a recipient's cells or tissues with an HCT/P that performs the same basic function or functions in the recipient as in the donor.

(d)(1) *Human cells, tissues, or cellular or tissue-based products (HCT/P's)* means any human tissue derived from a human body and intended for transplantation into another human, as defined under § 1270.3(j). Examples of HCT/P's include, but are not limited to, bone, ligament, skin, and cornea.

(2) *Human cells, tissues, or cellular or tissue-based products (HCT/P's)* means articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion, or transfer into a human recipient. Examples of HCT/P's include, but are not limited to, bone, ligament, skin, cornea, hematopoietic stem cells derived from peripheral and cord blood, manipulated autologous chondrocytes, epithelial cells on a synthetic matrix, and semen or other reproductive tissue. The following articles are not considered HCT/P's:

(i) Vascularized human organs for transplantation;

(ii) Whole blood or blood components or blood derivative products subject to listing under parts 607 and 207 of this chapter, respectively;

(iii) Secreted or extracted human products, such as milk, collagen, and cell factors; except that semen is considered an HCT/P;

(iv) Minimally manipulated bone marrow for homologous use and not combined with a drug or a device (except for a sterilizing, preserving, or

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storage agent, if the addition of the agent does not raise new clinical safety concerns with respect to the bone marrow);

(v) Ancillary products used in the manufacture of HCT/P;

(vi) Cells, tissues, and organs derived from animals other than humans;

(vii) In vitro diagnostic products as defined in §809.3(a) of this chapter; and

(viii) Human dura mater and human heart valve allografts.

(e) *Manufacture means*, but is not limited to, any or all steps in the recovery, processing, storage, labeling, packaging, or distribution of any human cell or tissue, and the screening or testing of the cell or tissue donor.

(f) *Minimal manipulation means*:

(1) For structural tissue, processing that does not alter the original relevant characteristics of the tissue relating to the tissue's utility for reconstruction, repair, or replacement; and

(2) For cells or nonstructural tissues, processing that does not alter the relevant biological characteristics of cells or tissues.

(g) *Transfer* means the placement of human reproductive cells or tissues into a human recipient.

[66 FR 5466, Jan. 19, 2001, as amended at 68 FR 3826, Jan. 27, 2004]

§ 1271.10 Are my HCT/P's regulated solely under section 361 of the PHS Act and the regulations in this part, and if so what must I do?

(a) An HCT/P is regulated solely under section 361 of the PHS Act and the regulations in this part if it meets all of the following criteria:

(1) The HCT/P is minimally manipulated;

(2) The HCT/P is intended for homologous use only, as reflected by the labeling, advertising, or other indications of the manufacturer's objective intent;

(3) The manufacture of the HCT/P does not involve the combination of the cell or tissue component with a drug or a device, except for a sterilizing, preserving, or storage agent, if the addition of the agent does not raise new clinical safety concerns with respect to the HCT/P; and

(4) Either:

(i) The HCT/P does not have a systemic effect and is not dependent upon

the metabolic activity of living cells for its primary function; or

(ii) The HCT/P has a systemic effect or is dependent upon the metabolic activity of living cells for its primary function, and:

(a) Is for autologous use;

(b) Is for allogeneic use in a first-degree or second-degree blood relative; or

(c) Is for reproductive use.

(b) If you are a domestic or foreign establishment that manufactures an HCT/P described in paragraph (a) of this section:

(1) You must register with FDA;

(2) You must submit to FDA a list of each HCT/P manufactured; and

(3) You must comply with the other requirements contained in this part.

§ 1271.15 Are there any exceptions from the requirements of this part?

(a) You are not required to comply with the requirements of this part if you are an establishment that uses HCT/P's solely for nonclinical scientific or educational purposes.

(b) You are not required to comply with the requirements of this part if you are an establishment that removes HCT/P's from an individual and implants such HCT/P's into the same individual during the same surgical procedure.

(c) You are not required to comply with the requirements of this part if you are a carrier who accepts, receives, carries, or delivers HCT/P's in the usual course of business as a carrier.

(d) You are not required to comply with the requirements of this part if you are an establishment that does not recover, screen, test, process, label, package, or distribute, but only receives or stores HCT/P's solely for implantation, transplantation, infusion, or transfer within your facility.

(e) You are not required to comply with the requirements of this part if you are an establishment that only recovers reproductive cells or tissue and immediately transfers them into a sexually intimate partner of the cell or tissue donor.

(f) You are not required to register or list your HCT/P's independently, but you must comply with all other applicable requirements in this part, if you are an individual under contract,

agreement, or other arrangement with a registered establishment and engaged solely in recovering cells or tissues and sending the recovered cells or tissues to the registered establishment.

§ 1271.20 If my HCT/P's do not meet the criteria in § 1271.10, and I do not qualify for any of the exceptions in § 1271.15, what regulations apply?

If you are an establishment that manufactures an HCT/P that does not meet the criteria set out in § 1271.10(a), and you do not qualify for any of the exceptions in § 1271.15, your HCT/P will be regulated as a drug, device, and/or biological product under the act and/or section 351 of the PHS Act, and applicable regulations in title 21, chapter I. Applicable regulations include, but are not limited to, §§ 207.20(f), 210.1(c), 210.2, 211.1(b), 807.20(d), and 820.1(a) of this chapter, which require you to follow the procedures in subparts B, C, and D of this part.

Subpart B—Procedures for Registration and Listing

§ 1271.21 When do I register, submit an HCT/P list, and submit updates?

(a) You must register and submit a list of every HCT/P that your establishment manufactures within 5 days after beginning operations or within 30 days of the effective date of this regulation, whichever is later.

(b) You must update your establishment registration annually in December, except as required by § 1271.26. You may accomplish your annual registration in conjunction with updating your HCT/P list under paragraph (c) of this section.

(c)(i) If no change described in § 1271.25(c) has occurred since you previously submitted an HCT/P list, you are not required to update your listing.

(ii) If a change described in § 1271.25(c) has occurred, you must update your HCT/P listing with the new information:

(a) At the time of the change, or

(b) Each June or December, whichever month occurs first after the change.

§ 1271.22 How and where do I register and submit an HCT/P list?

(a) You must use Form FDA 3356 for:

(i) Establishment registration,

(ii) HCT/P listings, and

(iii) Updates of registration and HCT/P listing.

(b) You may obtain Form FDA 3356:

(i) By writing to the Center for Biologics Evaluation and Research (HFM-305), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, Attention: Tissue Establishment Registration Coordinator;

(ii) By contacting any Food and Drug Administration district office;

(iii) By calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800;

(iv) By calling the Fax Information System at 1-888-CBER-FAX or 301-827-3844; or

(v) By connecting to <http://forms.psc.gov/forms/FDA/fda.html> on the Internet.

(c)(i) You may submit Form FDA 3356 to the Center for Biologics Evaluation and Research (HFM-305), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, Attention: Tissue Establishment Registration Coordinator; or

(ii) You may submit Form FDA 3356 electronically in accordance with the instructions provided with the form.

§ 1271.25 What information is required for establishment registration and HCT/P listing?

(a) Your establishment registration Form FDA 3356 must include:

(1) The legal name(s) of the establishment;

(2) Each location, including the street address of the establishment and the postal service zip code;

(3) The name, address, and title of the reporting official; and

(4) A dated signature by the reporting official affirming that all information contained in the establishment registration and HCT/P listing form is true and accurate, to the best of his or her knowledge.

(b) Your HCT/P listing must include all HCT/P's (including the established name and the proprietary name) that

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you recover, process, store, label, package, distribute, or for which you perform donor screening or testing. You must also state whether each HCT/P meets the criteria set out in § 1271.10.

(c) Your HCT/P listing update must include:

(1) A list of each HCT/P that you have begun recovering, processing, storing, labeling, packaging, distributing, or for which you have begun donor screening or testing, that has not been included in any list previously submitted. You must provide all of the information required by § 1271.25(b) for each new HCT/P.

(2) A list of each HCT/P formerly listed in accordance with § 1271.21(a) for which you have discontinued recovery, processing, storage, labeling, packaging, distribution, or donor screening or testing, including for each HCT/P so listed, the identity by established name and proprietary name, and the date of discontinuance. We request but do not require that you include the reason for discontinuance with this information.

(3) A list of each HCT/P for which a notice of discontinuance was submitted under paragraph (c)(2) of this section and for which you have resumed recovery, processing, storage, labeling, packaging, distribution, or donor screening or testing, including the identity by established name and proprietary name, the date of resumption, and any other information required by § 1271.25(b) not previously submitted.

(4) Any material change in any information previously submitted. Material changes include any change in information submitted on Form FDA 3356, such as whether the HCT/P meets the criteria set out in § 1271.10.

§ 1271.26 When must I amend my establishment registration?

If the ownership or location of your establishment changes, you must submit an amendment to registration within 5 days of the change.

§ 1271.27 Will FDA assign me a registration number?

(a) FDA will assign each location a permanent registration number.

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(b) FDA acceptance of an establishment registration and HCT/P listing form does not constitute a determination that an establishment is in compliance with applicable rules and regulations or that the HCT/P is licensed or approved by FDA.

§ 1271.37 Will establishment registrations and HCT/P listings be available for inspection, and how do I request information on registrations and listings?

(a) A copy of the Form FDA 3356 filed by each establishment will be available for public inspection at the Office of Communication, Training, and Manufacturers Assistance (HFM-48), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852-1448. In addition, there will be available for inspection at each of the Food and Drug Administration district offices the same information for firms within the geographical area of such district office. Upon request and receipt of a self-addressed stamped envelope, verification of a registration number or the location of a registered establishment will be provided. The following information submitted under the HCT/P requirements is illustrative of the type of information that will be available for public disclosure when it is compiled:

- (1) A list of all HCT/P's;
- (2) A list of all HCT/P's manufactured by each establishment;
- (3) A list of all HCT/P's discontinued; and
- (4) All data or information that has already become a matter of public record.

(b) You should direct your requests for information regarding HCT/P establishment registrations and HCT/P listings to the Office of Communication, Training and Manufacturers Assistance (HFM-48), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852-1448.

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