

*Neisseria gonorrhea* are available, you must use FDA-licensed, approved, or cleared tests labeled for the detection of those organisms in an asymptomatic, low-prevalence population. You must use a test specifically labeled for cadaveric specimens instead of a more generally labeled test when applicable and when available. Required testing under this section must be performed by a laboratory that either is certified to perform such testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. 263a) and 42 CFR part 493, or has met equivalent requirements as determined by the Centers for Medicare and Medicaid Services.

(d) *Ineligible donors.* You must determine the following donors to be ineligible:

(1) A donor whose specimen tests reactive on a screening test for a communicable disease agent in accordance with § 1271.85, except for a donor whose specimen tests reactive on a non-treponemal screening test for syphilis and negative on a specific treponemal confirmatory test;

(2)(i) A donor in whom plasma dilution sufficient to affect the results of communicable disease testing is suspected, unless:

(A) You test a specimen taken from the donor before transfusion or infusion and up to 7 days before recovery of cells or tissue; or

(B) You use an appropriate algorithm designed to evaluate volumes administered in the 48 hours before specimen collection, and the algorithm shows that plasma dilution sufficient to affect the results of communicable disease testing has not occurred.

(ii) Clinical situations in which you must suspect plasma dilution sufficient to affect the results of communicable disease testing include but are not limited to the following:

(A) Blood loss is known or suspected in a donor over 12 years of age, and the donor has received a transfusion or infusion of any of the following, alone or in combination:

(1) More than 2,000 milliliters (mL) of blood (e.g., whole blood, red blood cells) or colloids within 48 hours before

death or specimen collection, whichever occurred earlier, or

(2) More than 2,000 mL of crystalloids within 1 hour before death or specimen collection, whichever occurred earlier.

(B) Regardless of the presence or absence of blood loss, the donor is 12 years of age or younger and has received a transfusion or infusion of any amount of any of the following, alone or in combination:

(1) Blood (e.g., whole blood, red blood cells) or colloids within 48 hours before death or specimen collection, whichever occurred earlier, or

(2) Crystalloids within 1 hour before death or specimen collection, whichever occurred earlier.

[69 FR 29830, May 25, 2004, as amended at 70 FR 29952, May 25, 2005]

**§ 1271.85 What donor testing is required for different types of cells and tissues?**

(a) *All donors.* To adequately and appropriately reduce the risk of transmission of relevant communicable diseases, and except as provided under § 1271.90, you must test a specimen from the donor of cells or tissue, whether viable or nonviable, for evidence of infection due to relevant communicable disease agents, including:

(1) Human immunodeficiency virus, type 1;

(2) Human immunodeficiency virus, type 2;

(3) Hepatitis B virus;

(4) Hepatitis C virus; and

(5) *Treponema pallidum*.

(b) *Donors of viable, leukocyte-rich cells or tissue.* In addition to the relevant communicable disease agents for which testing is required under paragraph (a) of this section, and except as provided under § 1271.90,

(1) You must test a specimen from the donor of viable, leukocyte-rich cells or tissue to adequately and appropriately reduce the risk of transmission of relevant cell-associated communicable diseases, including:

(i) Human T-lymphotropic virus, type I; and

(ii) Human T-lymphotropic virus, type II.

(2) You must test a specimen from the donor of viable, leukocyte-rich cells or tissue for evidence of infection

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due to cytomegalovirus (CMV), to adequately and appropriately reduce the risk of transmission. You must establish and maintain a standard operating procedure governing the release of an HCT/P from a donor whose specimen tests reactive for CMV.

(c) *Donors of reproductive cells or tissue.* In addition to the communicable disease agents for which testing is required under paragraphs (a) and (b) of this section, as applicable, and except as provided under § 1271.90, you must test a specimen from the donor of reproductive cells or tissue to adequately and appropriately reduce the risk of transmission of relevant communicable disease agents of the genitourinary tract. Such testing must include testing for the communicable disease agents listed in paragraphs (c)(1) and (c)(2) of this section. However, if the reproductive cells or tissues are recovered by a method that ensures freedom from contamination of the cells or tissue by infectious disease organisms that may be present in the genitourinary tract, then testing for the communicable disease agents listed in paragraphs (c)(1) and (c)(2) of this section is not required. Communicable disease agents of the genitourinary tract for which you must test include:

- (1) *Chlamydia trachomatis*; and
- (2) *Neisseria gonorrhea*.

(d) *Retesting anonymous semen donors.* Except as provided under § 1271.90 and except for directed reproductive donors as defined in § 1271.3(l), at least 6 months after the date of donation of semen from anonymous donors, you must collect a new specimen from the donor and test it for evidence of infection due to the communicable disease agents for which testing is required under paragraphs (a), (b), and (c) of this section.

(e) *Dura mater.* For donors of dura mater, you must perform an adequate assessment designed to detect evidence of transmissible spongiform encephalopathy.

### **§ 1271.90 Are there exceptions from the requirement of determining donor eligibility, and what labeling requirements apply?**

(a) *Donor-eligibility determination not required.* You are not required to make

a donor-eligibility determination under § 1271.50 or to perform donor screening or testing under §§ 1271.75, 1271.80 and 1271.85 for:

(1) Cells and tissues for autologous use; or

(2) Reproductive cells or tissue donated by a sexually intimate partner of the recipient for reproductive use; or

(3) Cryopreserved cells or tissue for reproductive use, other than embryos, originally exempt under paragraphs (a)(1) or (a)(2) of this section at the time of donation, that are subsequently intended for directed donation, provided that

(i) Additional donations are unavailable, for example, due to the infertility or health of a donor of the cryopreserved reproductive cells or tissue; and

(ii) Appropriate measures are taken to screen and test the donor(s) before transfer to the recipient.

(4) A cryopreserved embryo, originally exempt under paragraph (a)(2) of this section at the time of cryopreservation, that is subsequently intended for directed or anonymous donation. When possible, appropriate measures should be taken to screen and test the semen and oocyte donors before transfer of the embryo to the recipient.

(b) *Required labeling.* As applicable, you must prominently label an HCT/P described in paragraph (a) of this section as follows:

(1) “FOR AUTOLOGOUS USE ONLY,” if it is stored for autologous use.

(2) “NOT EVALUATED FOR INFECTIOUS SUBSTANCES,” unless you have performed all otherwise applicable screening and testing under §§ 1271.75, 1271.80, and 1271.85. This paragraph does not apply to reproductive cells or tissue labeled in accordance with paragraph (b)(6) of this section.

(3) Unless the HCT/P is for autologous use only, “WARNING: Advise recipient of communicable disease risks,”

(i) When the donor-eligibility determination under § 1271.50(a) is not performed or is not completed; or

(ii) If the results of any screening or testing performed indicate: