(1) If classifying the device into class I, prescribe which, if any, of the requirements of sections 510, 519, and 520(f) of the act will not apply to the device and state the reasons for making the requirements inapplicable, in accordance with §860.95;  

(2) If classifying the device into class II or class III, at the discretion of the Commissioner, establish priorities for the application to the device of a performance standard or a premarket approval requirement;  

(3) If classifying an implant, or life-supporting or life-sustaining device, comply with §860.93(b).  

§ 860.95 Exemptions from sections 510, 519, and 520(f) of the act.  

(a) A panel recommendation to the Commissioner that a device be classified or reclassified into class I will include a recommendation as to whether the device should be exempted from some or all of the requirements of one or more of the following sections of the act: Section 510 (registration, product listing and premarket notification), section 519 (records and reports), and section 520(f) (good manufacturing practice requirements of the quality system regulation).  

(b) A regulation or an order classifying or reclassifying a device into class I will specify which requirements, if any, of sections 510, 519, and 520(f) of the act the device is to be exempted from, together with the reasons for such exemption.  

(c) The Commissioner will grant exemptions under this section only if the Commissioner determines that the requirements from which the device is exempted are not necessary to provide reasonable assurance of the safety and effectiveness of the device.  

Subpart C—Reclassification  

§ 860.120 General.  

(a) Sections 513(e) and (f), 514(b), 515(b), and 520(l) of the act provide for reclassification of a device and prescribe the procedures to be followed to effect reclassification. The purposes of subpart C are to:  

(1) Set forth the requirements as to form and content of petitions for reclassification;  

(2) Describe the circumstances in which each of the five statutory reclassification provisions applies; and  

(3) Explain the procedure for reclassification prescribed in the five statutory reclassification provisions.  

(b) The criteria for determining the proper class for a device are set forth in §860.3(c). The reclassification of any device within a generic type of device causes the reclassification of all substantially equivalent devices within