AMDM 2022
FDA IVD Submissions Workshop
De Novo

Peter J. Yang, PhD, RAC
De Novo Program Lead
Office of Regulatory Programs/Division of Submission Support
Office of Product Evaluation and Quality (OPEQ)
FDA/CDRH

What Is a De Novo Request?

- Intended for **new types of devices** that are low-to-moderate risk that are otherwise automatically classified into class III
- Request to classify the device into class I or class II based on **reasonable assurance of safety and effectiveness** (**not substantial equivalence**)
- If granted:
  - FDA **creates a new classification regulation**
  - the new device type is regulated through 510(k), if class II
  - the De Novo device serves as the first predicate device of its kind

Is the Product Eligible for De Novo?

- **Must be a medical device (Section 201(h) of FD&C Act)**
- **Must not fit into any existing classification regulation**
  - Doesn't fit into existing Class I/II regulation, i.e., no predicate device (would be NSE)
    - Includes unclassified preamendment devices
  - Doesn't fit into existing Class III regulation
- **No approved PMA(s) for same device type**

Classification Process – Goals

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

Together, these provide reasonable assurance of safety and effectiveness.

DEN200031 BioFire Respiratory Panel 2.1

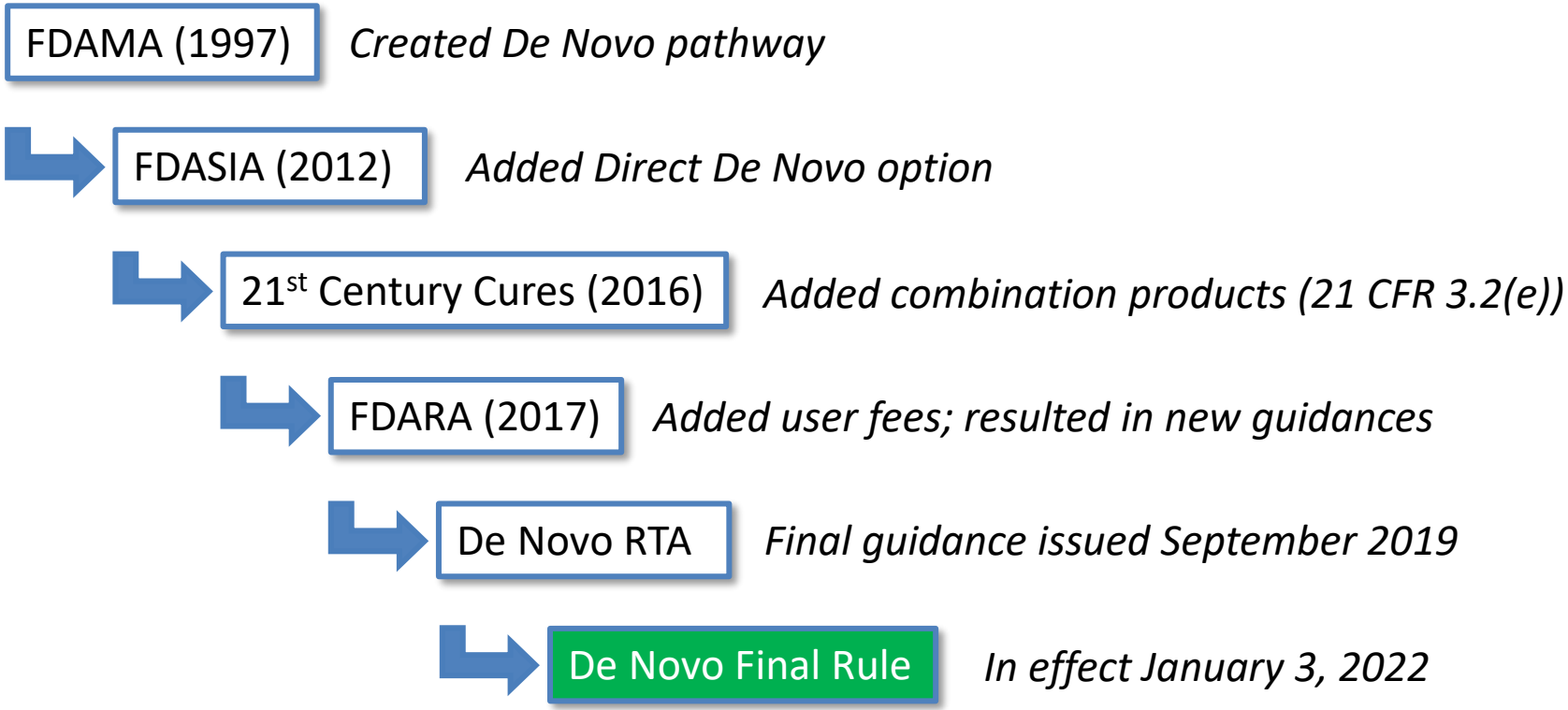
- **First nucleic acid test (NAT) granted for testing for COVID-19 in respiratory specimens; not an emergency use authorization (EUA)**
- **21 CFR 866.3981: Device to detect and identify nucleic acid targets in respiratory specimens from microbial agents that cause the SARS-CoV-2 respiratory infection and other microbial agents when in a multi-target test.** [This device] is an in vitro diagnostic device intended for the detection and identification of SARS-CoV-2 and other microbial agents when in a multi-target test in human clinical respiratory specimens from patients suspected of respiratory infection who are at risk for exposure or who may have been exposed to these agents. The device is intended to aid in the diagnosis of respiratory infection in conjunction with other clinical, epidemiologic, and laboratory data or other risk factors.

DEN200031 BioFire Respiratory Panel 2.1

- Special control (7) specifically developed around testing for new influenza viral strains
- Within 30 days of characterized viral sample availability, perform testing with those samples and an acceptable protocol.
- Within 60 days, update labeling with results of influenza emergency analytical reactivity testing.

7. If one of the actions listed at section 564(b)(1)(A)–(D) of the Federal Food, Drug, and Cosmetic Act occurs with respect to an influenza viral strain, or if the Secretary of Health and Human Services (HHS) determines, under section 319(a) of the Public Health Service Act, that a disease or disorder presents a public health emergency, or that a public health emergency otherwise exists, with respect to an influenza viral strain:
   (i) Within 30 days from the date that FDA notifies manufacturers that characterized viral samples are available for test evaluation, the manufacturer must have testing performed on the device with those influenza viral samples in accordance with a standardized protocol considered and determined by FDA to be acceptable and appropriate.
   (ii) Within 60 days from the date that FDA notifies manufacturers that characterized influenza viral samples are available for test evaluation and continuing until 3 years from that date, the results of the influenza emergency analytical reactivity testing, including the detailed information for the virus tested as described in the certificate of authentication, must be included as part of the device's labeling in a tabular format, either by:
      (A) Placing the results directly in the device's labeling required under 21 CFR 809.10(b) that accompanies the device in a separate section of the labeling where analytical reactivity testing data can be found, but separate from the annual analytical reactivity testing results; or
      (B) In a section of the device's label or in other labeling that accompanies the device, prominently providing a hyperlink to the manufacturer's public website where the analytical reactivity testing data can be found. The manufacturer's website, as well as the primary part of the manufacturer's website that discusses the device, must provide a prominently placed hyperlink to the website containing this information and must allow unrestricted viewing access.

De Novo History and Evolution



What Is the De Novo Final Rule?

- De Novo program and review process previously implemented entirely through non-binding guidance
- De Novo Final Rule adds new regulations to govern the De Novo review process
- De Novo regulations now at **21 CFR 860 Subpart D** (21 CFR 860: Medical device classification procedures)
- Provides clarity in the review procedures for De Novo requests
- Provides regulatory framework for De Novo program, similar to 510(k) and PMA regulations

De Novo Regulation Distinctives

- Specifies submission content requirements
- Codifies acceptance review process
- Adds specific inspection authority
- Outlines specific reasons for declining a De Novo, including reasons related to eligibility, inspections, and non-clinical and clinical data deficiencies

Updated De Novo Guidances

De Novo final rule largely reflects the existing process as implemented through guidance. Therefore, changes to the guidances are generally not substantive.

- De Novo Program: De Novo Classification Process (Evaluation of Automatic Class III Designation)
- De Novo User Fees: User Fees and Refunds for De Novo Classification Requests
- De Novo Actions/Clock: FDA and Industry Actions on De Novo Classification Requests: Effect on FDA Review Clock and Goals
- De Novo RTA: Acceptance Review for De Novo Classification Requests

Electronic Submission Template And Resource (eSTAR)

- Official De Novo eSTAR available as a complex PDF form in IVD and non-IVD formats
- eSTAR reflects items required by the RTA checklist
- eSTAR files will not undergo RTA review but will be screened for technical completeness
- See the voluntary eSTAR Program webpage

De Novo Take Away Points

- De Novo devices are at the center of current issues for novel and innovative medical device technologies
- Regulations created through De Novo classification set the stage for continuing innovation in 510(k) for devices with comparable intended uses, technologies, and risks
- The De Novo Final Rule updates the De Novo Program with regulations to match other premarket programs.
- FDA's eSTAR Program makes it easy to submit complete De Novo submissions to the Agency – electronically!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