This document summarizes changes in *Policy 501 Research Involving FDA Regulated Devices* (referred to as Policy 501 in this document) that NIH investigators should be aware of, from the SOP mentioned below.

The policy describes the responsibilities of NIH investigators, non-NIH investigators, NIH sponsors, and the NIH Institutional Review Board (IRB) when conducting or reviewing human subjects research (HSR) that involves the use of devices regulated by the Food and Drug Administration (FDA) and the Department of Health and Human Services (HHS).

This table is a high-level summary. It is not an in-depth review, and not all points raised in the policy will be included. Therefore, NIH investigators are responsible for reviewing Policy 501 and complying with the requirements of the policy.

Note: Text from the policy and other policy titles are italicized.

Policy 501 Research Involving FDA Regulated Devices	**SOP Superseded by Policies:**
Policy 501 partially supersedes	***SOP 15 Research Regulated by the Food and Drug Administration (FDA*)**: **General Procedures for Both IND and IDE Applications** When inactivated, this SOP will be archived in the Policy Archive.
Policy 501 fully supersedes	***SOP 15B Research Regulated by the Food and Drug Administration (FDA): Information and Policies for Investigational Device Exemption (IDE) Applications*** When inactivated, this SOP will be archived in the Policy Archive.

Applicability of Policy 501 - This policy applies to:

- NIH investigators when conducting FDA-regulated research involving devices.
- Non-NIH investigators when conducting FDA-regulated research involving the use of devices when the NIH IRB is the Reviewing IRB.
- NIH IRB as the Reviewing IRB.

Policy Requirement	**SOP Requirement**
Section C.1. – *NIH investigators and non-NIH investigators conducting human subjects research involving device(s) must comply with all applicable FDA regulations including, but not limited to, 21 CFR parts 50, 56, 809, 812, and 814 as applicable, as well as those set forth in HHS regulations at 45 CFR part 46.* *AND* **Section C.2.** – *When reviewing and approving research involving investigational devices, the NIH IRB must apply the applicable FDA regulations including, but not limited to, 21 CFR parts 50, 56, 809, 812, and 814 as applicable, as well as those set forth in HHS regulations at 45 CFR part 46.*	**SOP 15, Section 15.2.** – *NIH researchers will conduct research that involves test articles** (including devices) *and human subjects* (i.e., clinical investigations*, in accordance with relevant FDA and Department of Health and Human Services (DHHS) regulatory requirements.* AND **SOP 15, Section 15.4.2.A.** – *The IRB will review the research protocol in accordance with applicable DHHS regulations (see SOP 8 – Procedures and Required Documentation for Initial Review of Protocols by a Convened NIH Institutional Review Board.), and FDA regulations (see 21 CFR part 56, References, for FDA regulations related to IRBs).*

Policy 501 is largely regulatory and reflects FDA and Common Rule requirements of which investigators and the IRB should already be aware.	
Section C.3. – *By NIH policy, NIH investigators may not be Sponsors, effective January 15, 2018. However, investigators may have sponsor responsibilities when required by regulation.* *AND* **Section E.3.a.** – *By NIH policy, IDEs shall be held by the IC, rather than by the NIH PI on the clinical protocol.* *I. Investigators may serve as the sponsor for expanded access protocols or when the device has been determined to be non-significant risk. (NSR)* Except in the case of expanded access or NSR device protocols, the ICs hold all IDEs rather than the NIH PI.	NA (Not applicable) **SOP 15B** was published prior to the January 15, 2018 NIH policy on who may be a Sponsor in the NIH IRP.
Section E.1.a. – *When the research involves the study of the safety or efficacy of an investigational device, the Principal Investigator (PI) will provide documentation supporting the sponsor's assessment of whether the device is exempt (21 CFR 812.2(c)), non-significant risk (NSR) or significant risk (SR) to the reviewing IRB.* For IDE exempt and NSR device studies, the term "exempt" does **not** mean exempt from IRB oversight or from the entirety of FDA regulations. In making its determination, the IRB serves as a surrogate for the FDA in determining whether a device study is a significant risk or non-significant risk device study. If the IRB or IRBO stipulates that the NIH PI submit to the FDA for an IDE determination, the FDA's determination is final. It is also important to understand that while NSR devices do not require a submission to the FDA, NSR devices are subject to abbreviated IDE requirements under 21 FCR 812.2(b).	**SOP 15B, Section 15.B.3.** – *FDA regulations at 21 CFR 812.2 describe the types of clinical investigations for which an IDE* does not need to be submitted to the FDA, (see References). For all other clinical investigations of devices, an IDE must be submitted.* SOP 501 is reorganized for clarity. There are no changes in regulatory obligations.

AND All other FDA regulations continue to apply to both NSR device studies and IDE exempt studies, (e.g., 21 CFR 50, and 21 CFR 56).	
Section E.1.b through E.1.c.IX. – This section of the policy describes the Principal Investigator's responsibilities under FDA regulation as they relate to: • obtaining IRB and FDA approval (when required) prior to enrolling subjects, • conducting the investigation, • obtaining informed consent, • storing, controlling and accounting of the device, • limiting device use, • financial disclosures, • reporting requirement including reporting UADEs and performing evaluation/investigation for all UADEs in accordance with *Policy 801 Reporting Research Events*, • record keeping, • returning any remaining supply of, or otherwise disposing of, unused devices, • and submitting reports as specified in 21 CFR 812.50. See Policy 501 for additional detail.	**SOP 15** and **SOP 15B** included these same regulatory obligations. Policy 501 is reorganized for clarity.
Section E.1.d. and **e.** – The PI must cooperate with sponsor monitoring, sponsor audits, and FDA inspections.	**SOP 15** and **SOP 15B** included these same regulatory obligations.
Section E.2. – lists sponsor responsibilities under relevant FDA regulations when the sponsor is the NIH or an NIH employee. Note: Sponsors are responsible for ensuring proper monitoring by qualified individuals, and conducting evaluations of any Unanticipated Adverse Device Events (UADEs). See Policy 501 for additional details, including obligations related to reporting UADEs (Section E.1.c.VI.), and Section E.2.a.X. regarding terminating investigations as a result of certain UADEs, and receiving IRB approval prior to resuming those studies.	**SOP 15** and **SOP 15B** included these same regulatory obligations. Policy 501 is reorganized for clarity.

Section E.3.b. – *When a PI holds the IDE (Sponsor-Investigator), s/he assumes all responsibilities of both the Investigator (see E.1. above) as well as the Sponsor (see E.2. above). (See 21 CFR 812 subpart E and 21 CFR 812 subpart C.) (See Policy 502 Expanded Access, Including Emergency Use of Investigational Drugs, Biologics, and Medical Devices (Test Articles).)* Sponsor investigator requirements are unchanged, Policy 501 is reorganized for clarity.	**SOP 15B, Section 15B.4.1.** – *Under FDA regulations at 21 CFR 812.20, sponsors*, including sponsor-investigators*, are required to submit to FDA an IDE if the sponsor intends to use a significant risk (SR) device in an investigation, intends to conduct an investigation that involves an exception from informed consent under* 21 CFR 50.24*, or if FDA notifies the sponsor that an application is required for an investigation.* Sponsor-Investigator obligations have not changed but are discussed in multiple sections of SOP 15B.
Section E.4. – Outlines IRB responsibilities under relevant FDA regulations when the NIH IRB is the reviewing IRB. Under Policy 501, the IRB must determine whether the device is IDE exempt, or has an approved IDE, or whether the sponsor has provided sufficient justification for an NSR determination. When the IRB cannot confirm that the test article is IDE exempt, or is NSR, the IRB will either require the PI submit an IDE application to the FDA or request a formal FDA determination as to whether an IDE is needed. Per Section E.4.c., the IRBO will return the application to the PI until the requirements E.4.b. are met. See Policy 501 for additional details.	**SOP 15** and **SOP 15B** included these same regulatory obligations. Policy 501 is reorganized for clarity and specifies that studies will be returned to the PI until an IDE, or other necessary documentation, is received.
Section E.5. – *a.Before use of a Humanitarian Use Device (HUD) in the course of routine clinical care to treat or diagnose patients at the NIH, IRB approval must be obtained. (21 CFR 814.124)* AND b. – *Initial review of a HUD will be performed by the convened NIH IRB.* AND e. – *Emergency use: If a physician in an emergency situation determines that IRB approval for the use of the HUD at the facility cannot be obtained in time to prevent serious harm or death to a patient, a HUD may be used without prior approval.* *AND*	**SOP 15B** included similar requirements. Policy 501 includes additional detail for specificity and clarity.

h. – Off-label clinical or treatment use of a HUD, where no safety and effectiveness data is collected, does not require IRB review.	