

be used and “The” may be omitted. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(c) Where a device is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such device; such as, “Manufactured for _____”, “Distributed by _____”, or any other wording that expresses the facts.

(d) The statement of the place of business shall include the street address, city, State, and Zip Code; however, the street address may be omitted if it is shown in a current city directory or telephone directory. The requirement for inclusion of the ZIP Code shall apply only to consumer commodity labels developed or revised after the effective date of this section. In the case of nonconsumer packages, the ZIP Code shall appear on either the label or the labeling (including the invoice).

(e) If a person manufactures, packs, or distributes a device at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where such device was manufactured or packed or is to be distributed, unless such statement would be misleading.

§ 801.3 Definitions.

As used in this part:

Automatic identification and data capture (AIDC) means any technology that conveys the unique device identifier or the device identifier of a device in a form that can be entered into an electronic patient record or other computer system via an automated process.

Center Director means the Director of the Center for Devices and Radiological Health or the Director of the Center for Biologics Evaluation and Research, depending on which Center has been assigned lead responsibility for the device.

Combination product has the meaning set forth in § 3.2(e) of this chapter.

Convenience kit means two or more different medical devices packaged together for the convenience of the user.

Device package means a package that contains a fixed quantity of a particular version or model of a device.

Expiration date means the date by which the label of a device states the device must or should be used.

FDA, we, or us means the Food and Drug Administration.

Finished device means any device or accessory to any device that is suitable for use or capable of functioning.

Global Unique Device Identification Database (GUDID) means the database that serves as a repository of information to facilitate the identification of medical devices through their distribution and use.

Human cells, tissues, or cellular or tissue-based product (HCT/P) regulated as a device means an HCT/P as defined in § 1271.3(d) of this chapter that does not meet the criteria in § 1271.10(a) and that is also regulated as a device.

Implantable device means a device that is intended to be placed in a surgically or naturally formed cavity of the human body. A device is regarded as an *implantable device* for the purpose of this part only if it is intended to remain implanted continuously for a period of 30 days or more, unless the Commissioner of Food and Drugs determines otherwise in order to protect human health.

Label has the meaning set forth in section 201(k) of the Federal Food, Drug, and Cosmetic Act.

Labeler means:

(1) Any person who causes a label to be applied to a device with the intent that the device will be commercially distributed without any intended subsequent replacement or modification of the label; and

(2) Any person who causes the label of a device to be replaced or modified with the intent that the device will be commercially distributed without any subsequent replacement or modification of the label, except that the addition of the name of, and contact information for, a person who distributes the device, without making any other changes to the label, is not a modification for the purposes of determining whether a person is a labeler.

Lot or batch means one *finished device* or more that consist of a single type,

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model, class, size, composition, or software version that are manufactured under essentially the same conditions and that are intended to have uniform characteristics and quality within specified limits.

Shipping container means a container used during the shipment or transportation of devices, and whose contents may vary from one shipment to another.

Specification means any requirement with which a device must conform.

Unique device identifier (UDI) means an identifier that adequately identifies a device through its distribution and use by meeting the requirements of § 830.20 of this chapter. A unique device identifier is composed of:

(1) A *device identifier*—a mandatory, fixed portion of a UDI that identifies the specific version or model of a device and the labeler of that device; and

(2) A *production identifier*—a conditional, variable portion of a UDI that identifies one or more of the following when included on the label of the device:

(i) The lot or batch within which a device was manufactured;

(ii) The serial number of a specific device;

(iii) The expiration date of a specific device;

(iv) The date a specific device was manufactured;

(v) For an HCT/P regulated as a device, the distinct identification code required by § 1271.290(c) of this chapter.

Universal product code (UPC) means the product identifier used to identify an item sold at retail in the United States.

Version or model means all devices that have specifications, performance, size, and composition, within limits set by the labeler.

[78 FR 58817, Sept. 24, 2013]

§ 801.4 Meaning of intended uses.

The words *intended uses* or words of similar import in §§ 801.5, 801.119, 801.122, and 1100.5 of this chapter refer to the objective intent of the persons legally responsible for the labeling of an article (or their representatives). The intent may be shown by such persons' expressions, the design or composition of the article, or by the cir-

cumstances surrounding the distribution of the article. This objective intent may, for example, be shown by labeling claims, advertising matter, or oral or written statements by such persons or their representatives. Objective intent may be shown, for example, by circumstances in which the article is, with the knowledge of such persons or their representatives, offered or used for a purpose for which it is neither labeled nor advertised; provided, however, that a firm would not be regarded as intending an unapproved new use for a device approved, cleared, granted marketing authorization, or exempted from premarket notification based solely on that firm's knowledge that such device was being prescribed or used by health care providers for such use. The intended uses of an article may change after it has been introduced into interstate commerce by its manufacturer. If, for example, a packer, distributor, or seller intends an article for different uses than those intended by the person from whom he or she received the article, such packer, distributor, or seller is required to supply adequate labeling in accordance with the new intended uses.

[86 FR 41401, Aug. 2, 2021]

EFFECTIVE DATE NOTE: At 82 FR 2217, Jan. 9, 2017, § 801.4 was revised, effective Feb. 8, 2017. At 82 FR 9501, Feb. 7, 2017, this amendment was delayed until Mar. 21, 2017. At 82 FR 14319, Mar. 20, 2017, this amendment was further delayed until Mar. 19, 2018. At 83 FR 11639, Mar. 16, 2018 this amendment was delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 801.4 Meaning of intended uses.

The words *intended uses* or words of similar import in §§ 801.5, 801.119, 801.122, and 1100.5 of this chapter refer to the objective intent of the persons legally responsible for the labeling of devices. The intent is determined by such persons' expressions or may be shown by the circumstances surrounding the distribution of the article. This objective intent may, for example, be shown by labeling claims, advertising matter, or oral or written statements by such persons or their representatives. It may be shown, for example, by circumstances in which the article is, with the knowledge of such persons or their representatives, offered and used for a purpose for which it is neither labeled nor advertised. The intended uses of an article may change after it has been introduced into