

as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

[52 FR 17733, May 11, 1987; 52 FR 22577, June 12, 1987]

§ 866.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

The Food and Drug Administration's (FDA's) decision to grant an exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I device is based upon the existing and reasonably foreseeable characteristics of commercially distributed devices within that generic type. Because FDA cannot anticipate every change in intended use or characteristic that could significantly affect a device's safety or effectiveness, manufacturers of any commercially distributed class I device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA before introducing or delivering for introduction into interstate commerce for commercial distribution the device when:

(a) The device is intended for a use different from its intended use before May 28, 1976, or the device is intended for a use different from the intended use of a preamendments device to which it had been determined to be substantially equivalent; e.g., the device is intended for a different medical purpose, or the device is intended for lay use where the former intended use was by health care professionals only; or

(b) The modified device operates using a different fundamental scientific technology than that in use in the device before May 28, 1976 e.g., a surgical instrument cuts tissue with a laser beam rather than with a sharpened metal blade, or an in vitro diagnostic device detects or identifies infectious agents by using a deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology.

[54 FR 25045, June 12, 1989]

Subpart B—Diagnostic Devices

§ 866.1620 Antimicrobial susceptibility test disc.

(a) *Identification.* An antimicrobial susceptibility test disc is a device that consists of antimicrobial-impregnated paper discs used to measure by a disc-agar diffusion technique or a disc-broth elution technique the in vitro susceptibility of most clinically important bacterial pathogens to antimicrobial agents. In the disc-agar diffusion technique, bacterial susceptibility is ascertained by directly measuring the magnitude of a zone of bacterial inhibition around the disc on an agar surface. The disc-broth elution technique is associated with an automated rapid susceptibility test system and employs a fluid medium in which susceptibility is ascertained by photometrically measuring changes in bacterial growth resulting when antimicrobial material is eluted from the disc into the fluid medium. Test results are used to determine the antimicrobial agent of choice in the treatment of bacterial diseases.

(b) *Classification.* Class II (performance standards).

§ 866.1640 Antimicrobial susceptibility test powder.

(a) *Identification.* An antimicrobial susceptibility test powder is a device that consists of an antimicrobial drug powder packaged in vials in specified amounts and intended for use in clinical laboratories for determining in vitro susceptibility of bacterial pathogens to these therapeutic agents. Test results are used to determine the antimicrobial agent of choice in the treatment of bacterial diseases.

(b) *Classification.* Class II (performance standards).

§ 866.1700 Culture medium for antimicrobial susceptibility tests.

(a) *Identification.* A culture medium for antimicrobial susceptibility tests is a device intended for medical purposes that consists of any medium capable of supporting the growth of many of the bacterial pathogens that are subject to antimicrobial susceptibility tests. The medium should be free of components known to be antagonistic to the common agents for which susceptibility

tests are performed in the treatment of disease.

(b) *Classification.* Class II (performance standards).

Subpart C—Microbiology Devices

§ 866.2050 Staphylococcal typing bacteriophage.

(a) *Identification.* A staphylococcal typing bacteriophage is a device consisting of a bacterial virus intended for medical purposes to identify pathogenic staphylococcal bacteria through use of the bacteria's susceptibility to destruction by the virus. Test results are used principally for the collection of epidemiological information.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[47 FR 50823, Nov. 9, 1982, as amended at 54 FR 25045, June 12, 1989]

§ 866.2120 Anaerobic chamber.

(a) *Identification.* An anaerobic chamber is a device intended for medical purposes to maintain an anaerobic (oxygen free) environment. It is used to isolate and cultivate anaerobic microorganisms.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807. The device also is exempt from the good manufacturing practice regulation in part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2160 Coagulase plasma.

(a) *Identification.* Coagulase plasma is a device that consists of freeze-dried animal or human plasma that is intended for medical purposes to perform coagulase tests primarily on staphylococcal bacteria. When reconstituted, the fluid plasma is clotted by the action of the enzyme coagulase which is produced by pathogenic staphylococci. Test results are used primarily as an aid in the diagnosis of disease caused by pathogenic bacteria belonging to the genus *Staphylococcus* and provide

epidemiological information on disease caused by these microorganisms.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[47 FR 50823, Nov. 9, 1982, as amended at 61 FR 1119, Jan. 16, 1996]

§ 866.2170 Automated colony counter.

(a) *Identification.* An automated colony counter is a mechanical device intended for medical purposes to determine the number of bacterial colonies present on a bacteriological culture medium contained in a petri plate. The number of colonies counted is used in the diagnosis of disease as a measure of the degree of bacterial infection.

(b) *Classification.* Class I. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter.

[47 FR 50823, Nov. 9, 1982, as amended at 54 FR 25045, June 12, 1989]

§ 866.2180 Manual colony counter.

(a) *Identification.* A manual colony counter is a device intended for medical purposes that consists of a printed grid system superimposed on an illuminated screen. Petri plates containing bacterial colonies to be counted are placed on the screen for better viewing and ease of counting. The number of colonies counted is used in the diagnosis of disease as a measure of the degree of bacterial infection.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807. The device also is exempt from the good manufacturing practice regulation in part 820, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

§ 866.2300 Multipurpose culture medium.

(a) *Identification.* A multipurpose culture medium is a device that consists primarily of liquid or solid biological materials intended for medical purposes for the cultivation and identification of several types of pathogenic microorganisms without the need of