

## Food and Drug Administration, HHS

## § 884.3

- 884.2720 External uterine contraction monitor and accessories.
- 884.2740 Perinatal monitoring system and accessories.
- 884.2900 Fetal stethoscope.
- 884.2960 Obstetric ultrasonic transducer and accessories.
- 884.2980 Telethermographic system.
- 884.2982 Liquid crystal thermographic system.

### Subpart D—Obstetrical and Gynecological Prosthetic Devices

- 884.3200 Cervical drain.
- 884.3575 Vaginal pessary.
- 884.3650 Fallopian tube prosthesis.
- 884.3900 Vaginal stent.

### Subpart E—Obstetrical and Gynecological Surgical Devices

- 884.4100 Endoscopic electrocautery and accessories.
- 884.4120 Gynecologic electrocautery and accessories.
- 884.4150 Bipolar endoscopic coagulator-cutter and accessories.
- 884.4160 Unipolar endoscopic coagulator-cutter and accessories.
- 884.4250 Expandable cervical dilator.
- 884.4260 Hygroscopic Laminaria cervical dilator.
- 884.4270 Vibratory cervical dilators.
- 884.4340 Fetal vacuum extractor.
- 884.4400 Obstetric forceps.
- 884.4500 Obstetric fetal destructive instrument.
- 884.4520 Obstetric-gynecologic general manual instrument.
- 884.4530 Obstetric-gynecologic specialized manual instrument.
- 884.4550 Gynecologic surgical laser.
- 884.4900 Obstetric table and accessories.

### Subpart F—Obstetrical and Gynecological Therapeutic Devices

- 884.5050 Metreurynter-balloon abortion system.
- 884.5070 Vacuum abortion system.
- 884.5100 Obstetric anesthesia set.
- 884.5150 Nonpowered breast pump.
- 884.5160 Powered breast pump.
- 884.5225 Abdominal decompression chamber.
- 884.5250 Cervical cap.
- 884.5300 Condom.
- 884.5310 Condom with spermicidal lubricant.
- 884.5320 Glans sheath.
- 884.5350 Contraceptive diaphragm and accessories.
- 884.5360 Contraceptive intrauterine device (IUD) and introducer.
- 884.5380 Contraceptive tubal occlusion device (TOD) and introducer.
- 884.5390 Perineal heater.
- 884.5400 Menstrual cup.

- 884.5425 Scented or scented deodorized menstrual pad.
- 884.5435 Unscented menstrual pad.
- 884.5460 Scented or scented deodorized menstrual tampon.
- 884.5470 Unscented menstrual tampon.
- 884.5900 Therapeutic vaginal douche apparatus.
- 884.5920 Vaginal insufflator.
- 884.5940 Powered vaginal muscle stimulator for therapeutic use.
- 884.5960 Genital vibrator for therapeutic use.

AUTHORITY: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

SOURCE: 45 FR 12684-12720, Feb. 26, 1980, unless otherwise noted.

## Subpart A—General Provisions

### § 884.1 Scope.

(a) This part sets forth the classification of obstetrical and gynecological devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under part 807 may not show merely that the device is accurately described by the section title and identification provisions of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, a obstetrical and gynecological device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed only in one subpart.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to chapter I of title 21, unless otherwise noted.

[52 FR 17740, May 11, 1987]

### § 884.3 Effective dates of requirement for premarket approval.

A device included in this part that is classified into class III (premarket approval) shall not be commercially distributed after the date shown in the regulation classifying the device unless the manufacturer has an approval under section 515 of the act (unless an

exemption has been granted under section 520(g)(2) of the act). An approval under section 515 of the act consists of FDA's issuance of an order approving an application for premarket approval (PMA) for the device or declaring completed a product development protocol (PDP) for the device.

(a) Before FDA requires that a device commercially distributed before the enactment date of the amendments, or a device that has been found substantially equivalent to such a device, has an approval under section 515 of the act FDA must promulgate a regulation under section 515(b) of the act requiring such approval, except as provided in paragraph (b) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regulation for a device classified into class III in this part, the device may be commercially distributed without FDA's issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a "new" device as defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device

states that 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 17740, May 11, 1987]

**§ 884.9 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 25051, June 12, 1989]