and acceptance criteria must be adequate to demonstrate that there is no degradation in signal intensity of full mutations when testing a specimen at the latest indicated time point within the indicated device stability that is comprised of the lowest indicated DNA input that can be used.

Dated: May 22, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–09641 Filed 5–28–25; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2025–N–1160]

Medical Devices; Immunology and Microbiology Devices; Classification of the Zika Virus Serological Reagents

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the Zika virus serological reagents into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the Zika virus serological reagents' classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices in part by reducing regulatory burdens.

DATES: This order is effective May 29, 2025. The classification was applicable on May 23, 2019.

FOR FURTHER INFORMATION CONTACT: Dina Jerebitski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3574, Silver Spring, MD 20993–0002, 301–796–2411, *Dina.Jerebitski@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified Zika virus serological reagents as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (see also part 860, subpart D (21 CFR part 860, subpart D)). Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act (21 U.S.C. 360c(a)(1)). Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On December 26, 2018, FDA received InBios International, Inc.'s request for De Novo classification of the ZIKV Detect 2.0 IgM Capture ELISA. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on May 23, 2019, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21

CFR 866.3935.[1] We have named the generic type of device ''Zika virus serological reagents,'' and it is identified as in vitro diagnostic devices that consist of antigens or antibodies for the detection of Zika virus or Zika antibodies in human specimens from individuals who have signs and symptoms consistent with Zika virus infection and/or epidemiological risk factors. The detection aids in the diagnosis of current or recent Zika virus infection or serological status. Negative results obtained with this test do not preclude the possibility of Zika virus infection, past or present. Positive results should be interpreted with consideration of other clinical information and laboratory findings and should not be used as the sole basis for treatment or other patient management decisions.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—ZIKA VIRUS SEROLOGICAL REAGENTS RISKS AND MITIGATION MEASURES

Identified risks to health	Mitigation measures
Risk of false results	Certain device description, performance characteristics, and study details in labeling; Certain device description, validation procedures, and studies; and Certain device limitations in labeling.
Failure to correctly interpret test results	Certain device description, performance characteristics, and study details in labeling; and Certain device limitations in labeling.
Failure to correctly operate the device	Certain device description, performance characteristics, and study details in labeling; Certain device description, validation procedures, and studies; and Certain device limitations in labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding the quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR parts 801 and 809, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

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

■ 2. Add § 866.3935 to subpart D to read as follows:

§ 866.3935 Zika virus serological reagents.

(a) *Identification.* Zika virus serological reagents are *in vitro* diagnostic devices that consist of antigens or antibodies for the detection of Zika virus or Zika antibodies in human specimens from individuals who have signs and symptoms consistent with Zika virus infection and/or epidemiological risk factors. The detection aids in the diagnosis of current or recent Zika virus infection or serological status. Negative results obtained with this test do not preclude the possibility of Zika virus infection, past or present. Positive results should be interpreted with consideration of other clinical information and laboratory findings and should not be used as the sole basis for treatment or other patient management decisions.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The labeling required under § 809.10(b) of this chapter must include:

(i) An intended use with a detailed description of what the device detects (Zika IgM antibodies, other Zika antibodies, or Zika antigens), the type of results provided to the user, the specimen type for which testing is indicated (*e.g.,* serum, whole blood), the clinical indications appropriate for test use, and the specific population(s) for which the test is intended.

(ii) Performance characteristics from analytical and clinical studies required under paragraphs (b)(2)(ii) and (iii) of this section.

(iii) A detailed explanation of the interpretation of results and criteria for validity of results (*e.g.,* criteria that internal or external quality controls must meet in order for a test/test run to be valid, minimum signal strength that

[1] FDA notes the **ACTION** caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

the sample has to yield to be interpretable as a valid result).

(iv) Limiting statements indicating that:

(A) Results are not intended to be used as the sole basis for diagnosis, treatment, or other patient management decisions. The test results should be interpreted in conjunction with clinical observations, patient history, epidemiological information, and other laboratory evidence.

(B) Device results are intended to be followed up according to the latest professional guidelines (*e.g.,* recommendations from the Centers for Disease Control and Prevention) for the diagnosis of Zika virus infection.

(C) Negative test results do not preclude the possibility of Zika virus infection, past or present.

(D) Specimens can result in false negative results on the device if collected outside of the appropriate response window for specific Zika virus antigens or antibodies, as determined by scientific evidence (*e.g.,* for IgM <7 days post symptom onset (pso) or risk of exposure and if collected past 84 days pso).

(v) Detailed instructions for use that minimize the risk of generating a false positive or false negative result (*e.g.,* co-testing of other matrices).

(2) Design verification and validation must include:

(i) A detailed device description, including all device parts (*e.g.,* Zika antigen target, other flavivirus antigen target, capture antibodies), instrument requirements, ancillary reagents required but not provided, and the technological characteristics, including all pre-analytical methods for specimen processing.

(ii) Detailed documentation and results from analytical performance studies including: characterization of the cut-off(s), analytical sensitivity to a standardized reference material that FDA has determined is appropriate (*e.g.,* World Health Organization reference standard or the Centers for Disease Control and Prevention reference standard), class specificity for human antibodies (*e.g.,* IgM or IgG), analytical specificity (cross reactivity including cross reactivity to other flaviviruses), interference, carryover/cross contamination, specimen stability, hook effect (if applicable), matrix equivalency (if applicable), freeze-thaw studies (if applicable), and reproducibility.

(iii) Detailed documentation and results from clinical studies, including the clinical study protocol (with a description of the testing algorithm and results interpretation table), detailed clinical study report, including line data of the clinical study results, and other appropriate statistical analysis. The samples used in the clinical study must be collected from subjects representative of the full spectrum of the intended use population (*e.g.,* endemic and non-endemic regions if both are indicated).

Dated: May 22, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–09639 Filed 5–28–25; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2025–N–1163]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Temporarily-Placed Urethral Opening System for Symptoms of Benign Prostatic Hyperplasia

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the temporarily-placed urethral opening system for symptoms of benign prostatic hyperplasia into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the temporarily-placed urethral opening system for symptoms of benign prostatic hyperplasia's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective May 29, 2025. The classification was applicable on February 25, 2020.

FOR FURTHER INFORMATION CONTACT: Mark Kreitz, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2630, Silver Spring, MD 20993–0002, 301–796–7019, *Mark.Kreitz@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the temporarily-placed urethral opening system for symptoms of benign prostatic hyperplasia as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 & (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (see also part 860, subpart D (21 CFR part 860, subpart D)). Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section