operator precision, as applicable to the system;

(ii) Studies that demonstrate the performance of each parameter (test output) throughout the claimed measurement range, to include linearity studies or dose-response studies, as applicable to the parameter (test output);

(iii) Potential interferent study that includes evaluation of hemolyzed and lipemic samples as potential interferents; exogenous and endogenous interferents associated with each patient population intended for use with the device, and which might be expected to affect assay performance, must be evaluated; and potential interferents that are specific for, or related to, the technology or methodology of the device. Evaluation of all potential interferents must be performed using a protocol determined to be acceptable to the FDA (*e.g.,* an FDA-recognized standard) and include both normal and abnormal specimens covering coagulation profiles representative of the intended use population;

(iv) A study that evaluates specimen stability under the intended conditions for specimen collection, handling, and storage, using samples that cover the coagulation profiles representative of the intended use population, and using protocols determined to be acceptable by FDA;

(v) A multisite clinical study, determined to be acceptable by FDA, demonstrating performance, relative to clinically relevant and clinically validated laboratory test(s) for each parameter (test output). Further, the study must meet all of the following criteria:

(A) The study must be performed in the intended use population and include representation from all patient populations for whom the device is intended to be used. Potential endogenous and exogenous interferents for each target patient population must be evaluated or known prior to the study;

(B) The study must be conducted at a minimum of three external sites representative of the intended use setting by the intended operators;

(C) Test samples must be collected at time intervals relevant to the device's use in the intended use population;

(D) Clinical specimens, which cover coagulation profiles representative of the intended use population, must be evaluated at each of the three clinical sites in the study;

(E) Analysis of the concordance of clinical interpretation of patient coagulation status made from individual test parameter (test output) results as compared to clinical interpretation of coagulation status from a clinically relevant laboratory test or tests (*e.g.,* a comparative viscoelastic device or standard laboratory tests) must be conducted; and

(F) Expected (reference) values for each parameter (test output) must be demonstrated by testing a statistically appropriate number of samples from apparently healthy normal individuals;

(vi) For a device with a user interface that has information that needs to be interpreted by the user in correctly using the device to achieve the intended test results or a device that does not provide a final output that is a comprehensive interpretation of all parameter (test output) results, a study evaluating the ability of device users to correctly interpret results;

(vii) For any device indicated to guide blood product use, a clinical outcome study determined to be acceptable by FDA that specifically validates the device's indicated use in guiding blood product use; and

(viii) For any device indicated to guide use of medication, a clinical outcome study determined to be acceptable by FDA that specifically validates the device's indicated use in guiding use of medication.

(2) The labeling required under § 809.10(b) of this chapter must include the following:

(i) A summary of results from the study required by paragraph (b)(1)(i) of this section, including repeatability, reproducibility, and assessments of within-run, within-day, between-run, between-day, between-reagent lot, between-instrument, between-site, and between-operator precision, as applicable to the system.

(ii) The claimed measurement range of each parameter (test output), as supported by demonstrated performance of the parameter (test output) throughout the claimed measurement range, including studies required by paragraphs (b)(1)(i) through (iii) and (v) of this section, and, if applicable, paragraphs (b)(1)(vii) and (viii) of this section.

(iii) Identification of known interferents, including all endogenous, exogenous, technology-specific, and patient population-specific interferents, specific to each parameter (test output). The information must include the concentration(s) or level(s) at which interference was found to occur and the concentration range or levels at which interference was not found to occur.

(iv) Information regarding the multisite clinical study required by paragraph (b)(1)(v) of this section, including:

(A) Each patient population evaluated;

(B) Each intended use setting and the operators;

(C) A summary of the results, including the concordance analysis to clinically relevant laboratory test(s); and

(D) Demonstrated expected (reference) values for each parameter (test output).

(3) The labeling required under § 809.10 of this chapter must include the following:

(i) A limiting statement that the result(s) from the device is(are) not intended to be used as the sole basis for a patient diagnosis.

(ii) Unless appropriate clinical outcome studies are done in accordance with paragraph (b)(1)(vii) of this section that specifically validate an indication for the device's use in guiding blood product use, a limiting statement that the device has not been evaluated to guide blood product use.

(iii) Unless appropriate clinical outcome studies are done in accordance with paragraph (b)(1)(viii) of this section that specifically validate an indication for the device's use in guiding use of medication, a limiting statement that the device has not been evaluated to guide use of medication.

Dated: May 5, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–08151 Filed 5–8–25; 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–0814]

Medical Devices; Immunology and Microbiology Devices; Classification of the Device To Detect Nucleic Acids From Non-Viral Microorganism(s) Causing Sexually Transmitted Infections and Associated Resistance Marker(s)

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s) 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 device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s)'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 9, 2025. The classification was applicable on January 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 the device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s) 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. 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 August 31, 2018, FDA received Hologic, Inc.'s request for De Novo classification of the Aptima Mycoplasma genitalium Assay. 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 January 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 866.3393.[1] We have named the generic type of device ''device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s),'' and it is identified as an in vitro diagnostic device intended for the detection and identification of nucleic acids from non-viral microorganism(s) and their associated resistance markers in clinical specimens collected from patients suspected of sexually transmitted infections. The device is intended to aid in the diagnosis of non-viral sexually transmitted infections in conjunction with other clinical and laboratory data. These devices do not provide confirmation of antibiotic susceptibility since mechanisms of resistance may exist that are not detected by the device.

FDA has identified the following risks to health associated specifically with this type of device and the measures

[1] FDA notes that 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.

required to mitigate these risks in table 1.

TABLE 1—DEVICE TO DETECT NUCLEIC ACIDS FROM NON-VIRAL MICROORGANISM(S) CAUSING SEXUALLY TRANSMITTED INFECTIONS AND ASSOCIATED RESISTANCE MARKER(S) RISKS AND MITIGATION MEASURES

Identified risk to health	Mitigation measures
Risk of false results	General controls and special controls (1) (21 CFR 866.3393(b)(1)), (2) (21 CFR 866.3393(b)(2)), (3) (21 CFR 866.3393(b)(3)), and (4) (21 CFR 866.3393(b)(4)).
Failure to correctly interpret test results.	General controls and special controls (1) (21 CFR 866.3393(b)(1)), (3)(iii) (21 CFR 866.3393(b)(3)(iii)), (3)(iv) (21 CFR 866.3393(b)(3)(iv)), and (3)(v) (21 CFR 866.3393(b)(3)(v)).
Failure to correctly operate the device.	General controls and special controls (1) (21 CFR 866.3393(b)(1)), (3)(i) (21 CFR 866.3393(b)(3)(i)), and (4) (21 CFR 866.3393(b)(4)).

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, subpart 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 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, 360*l,* 371.

■ 2. Add § 866.3393 to subpart D to read as follows:

§ 866.3393 Device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s).

(a) *Identification.* A device to detect nucleic acids from non-viral microorganism(s) causing sexually transmitted infections and associated resistance marker(s) is an in vitro diagnostic device intended for the detection and identification of nucleic acids from non-viral microorganism(s) and their associated resistance markers in clinical specimens collected from patients suspected of sexually transmitted infections. The device is intended to aid in the diagnosis of non-viral sexually transmitted infections in conjunction with other clinical and laboratory data. These devices do not provide confirmation of antibiotic susceptibility since mechanisms of resistance may exist that are not detected by the device.

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

(1) The intended use for the labeling required under § 809.10 of this chapter must include a detailed description of targets the device detects, the results provided to the user, the clinical indications appropriate for test use, and the specific population(s) for which the device is intended.

(2) Any sample collection device used must be FDA-cleared, -approved, or -classified as 510(k) exempt (standalone or as part of a test system) for the collection of specimen types claimed by this device; alternatively, the sample collection device must be cleared in a premarket submission as a part of this device.

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

(i) A detailed device description, including reagents, instruments, ancillary materials, all control elements, and a detailed explanation of the methodology, including all pre-analytical methods for processing of specimens;

(ii) Detailed discussion of the performance characteristics of the device for all claimed specimen types based on analytical studies, including Limit of Detection, inclusivity, cross-reactivity, interfering substances, competitive inhibition, carryover/cross contamination, specimen stability, within lab precision, and reproducibility, as appropriate;

(iii) Detailed descriptions of the test procedure, the interpretation of test results for clinical specimens, and acceptance criteria for any quality control testing;

(iv) Limiting statements indicating that:

(A) A negative test result does not preclude the possibility of infection;

(B) The test results should be interpreted in conjunction with other clinical and laboratory data available to the clinician;

(C) Reliable results are dependent on adequate specimen collection, transport, storage, and processing. Failure to observe proper procedures in any one of these steps can lead to incorrect results; and

(D) If appropriate (*e.g.,* recommended by the Centers for Disease Control and

Prevention, by current well-accepted clinical guidelines, or by published peer reviewed research), that the clinical performance is inferior in a specific clinical subpopulation or for a specific claimed specimen type; and

(v) If the device is intended to detect antimicrobial resistance markers, limiting statements, as appropriate, indicating that:

(A) Negative results for claimed resistance markers do not indicate susceptibility of detected microorganisms, as resistance markers not measured by the assay or other potential mechanisms of antibiotic resistance may be present;

(B) Detection of resistance markers cannot be definitively linked to specific microorganisms and the source of a detected resistance marker may be an organism not detected by the assay, including colonizing flora;

(C) Detection of antibiotic resistance markers may not correlate with phenotypic gene expression; and

(D) Therapeutic failure or success cannot be determined based on the assay results, since nucleic acid may persist following appropriate antimicrobial therapy.

(4) Design verification and validation must include:

(i) Detailed device description documentation, including methodology from obtaining sample to result, design of primer/probe sequences, rationale for target sequence selection, and computational path from collected raw data to reported result (*e.g.,* how collected raw signals are converted into a reported result).

(ii) Detailed documentation of analytical studies, including, Limit of Detection, inclusivity, cross-reactivity, microbial interference, interfering substances, competitive inhibition, carryover/cross contamination, specimen stability, within lab precision, and reproducibility, as appropriate.

(iii) Detailed documentation and performance results from a clinical study that includes prospective (sequential) samples for each claimed specimen type and, when determined to be appropriate by FDA, additional characterized clinical samples. The study must be performed on a study population consistent with the intended use population and compare the device performance to results obtained from FDA accepted comparator methods. Documentation from the clinical studies must include the clinical study protocol (including a predefined statistical analysis plan) study report, testing results, and results of all statistical analyses.

(iv) A detailed description of the impact of any software, including software applications and hardware-based devices that incorporate software, on the device's functions.

Dated: May 5, 2025.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2025–08149 Filed 5–8–25; 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–0725]

Medical Devices; Immunology and Microbiology Devices; Classification of the Cytomegalovirus Nucleic Acid Detection Device for Congenital Cytomegalovirus Infection

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the cytomegalovirus nucleic acid detection device for congenital cytomegalovirus infection 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 cytomegalovirus nucleic acid detection device for congenital cytomegalovirus infection'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 9, 2025. The classification was applicable on November 30, 2018.

FOR FURTHER INFORMATION CONTACT: Ryan Lubert, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3414, Silver Spring, MD 20993–0002, 240–402–6357, *ryan.lubert@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the cytomegalovirus nucleic acid detection device for congenital cytomegalovirus infection 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