

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 the intended use of a legally marketed device in that generic type of device; 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;

(b) The modified device operates using a different fundamental scientific technology than a legally marketed device in that generic type of device; 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 deoxyribonucleic acid (DNA) probe or nucleic acid hybridization technology rather than culture or immunoassay technology; or

(c) The device is an in vitro device that is intended:

(1) For use in the diagnosis, monitoring, or screening of neoplastic diseases with the exception of immunohistochemical devices;

(2) For use in screening or diagnosis of familial or acquired genetic disorders, including inborn errors of metabolism;

(3) For measuring an analyte that serves as a surrogate marker for screening, diagnosis, or monitoring life-threatening diseases such as acquired immune deficiency syndrome (AIDS), chronic or active hepatitis, tuberculosis, or myocardial infarction or to monitor therapy;

(4) For assessing the risk of cardiovascular diseases;

(5) For use in diabetes management;

(6) For identifying or inferring the identity of a microorganism directly from clinical material;

(7) For detection of antibodies to microorganisms other than immunoglobulin G (IgG) or IgG assays when the results are not qualitative, or are used to determine immunity, or the

assay is intended for use in matrices other than serum or plasma;

(8) For noninvasive testing as defined in § 812.3(k) of this chapter; and

(9) For near patient testing (point of care).

[65 FR 2314, Jan. 14, 2000]

### Subpart B—Diagnostic Devices

#### § 872.1500 Gingival fluid measurer.

(a) *Identification.* A gingival fluid measurer is a gauge device intended to measure the amount of fluid in the gingival sulcus (depression between the tooth and gums) to determine if there is a gingivitis condition.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

[52 FR 30097, Aug. 12, 1987, as amended at 59 FR 63007, Dec. 7, 1994; 66 FR 38797, July 25, 2001]

#### § 872.1720 Pulp tester.

(a) *Identification.* A pulp tester is an AC or battery powered device intended to evaluate the pulpal vitality of teeth by employing high frequency current transmitted by an electrode to stimulate the nerve tissue in the dental pulp.

(b) *Classification.* Class II.

#### § 872.1730 Electrode gel for pulp testers.

(a) *Identification.* An electrode gel for pulp testers is a device intended to be applied to the surface of a tooth before use of a pulp tester to aid conduction of electrical current.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 872.9.

[52 FR 30097, Aug. 12, 1987, as amended at 54 FR 13830, Apr. 5, 1989; 66 FR 38797, July 25, 2001]

#### § 872.1740 Caries detection device.

(a) *Identification.* The caries detection device is a device intended to show the existence of decay in a patient's tooth by use of electrical current.

(b) *Classification.* Class II.