service, including the effects of atmospheric disturbance. The showing of suitable static longitudinal stability must be based primarily on a positive control movement (positive control sense of motion as referenced in AC 27.173A), in addition to rotorcraft handling qualities by assessing pilot workload, cues, and pilot compensation for specific test procedures during the flight test evaluation.

Issued in Fort Worth, Texas, on April 29, 2026.

Jorge R. Castillo,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2026–08938 Filed 5–5–26; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2026–N–4644]

Medical Devices; Immunology and Microbiology Devices; Classification of the Device To Preserve and Stabilize Relative Abundances of Microbial Nucleic Acids in Clinical Samples

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples 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 classification of the device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples. We are taking this action because we have determined that classifying the device into class II 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 6, 2026. The classification was applicable on November 3, 2021.

FOR FURTHER INFORMATION CONTACT: Himani Bisht, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3106, Silver Spring, MD 20993–0002, 301–796–6189, *Himani.Bisht@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA (the Agency or we) has classified the device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples into class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness of the device. 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 into, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (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 (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 classification 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 premarket notification (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 June 15, 2020, FDA received DNA Genotek Inc.'s request for De Novo classification of the OMNIgene GUT Dx device. 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 of the device, 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 section 513(a)(1)(B) of the FD&C Act). 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 November 3, 2021, 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 866.2952.[1] We have named the generic type of device ''device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples,'' and it is identified as a device that consists of a container and reagents intended to stabilize microbial nucleic acids for the subsequent assessment of the relative abundance of microbial nucleic acids (*i.e.,* microbiome) in human specimens by an assay validated for use with the device. The device may also be indicated for sample collection. The device is not intended for preserving morphology or viability of microorganisms.

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

TABLE 1—RISKS TO HEALTH AND MITIGATION MEASURES FOR DEVICES TO PRESERVE AND STABILIZE RELATIVE ABUNDANCES OF MICROBIAL NUCLEIC ACIDS IN CLINICAL SAMPLES

Identified risks to health	Mitigation measures
Failure to correctly operate the device leading to inadequate sample collection.	Certain labeling information, including warnings and device descriptions.
	Certain design verification and validation studies.
Failure to stabilize microbial nucleic acid resulting in an inaccurate assay result.	Certain design verification and validation studies.
Device use with unvalidated or incompatible assays leading to inaccurate assay results and improper patient management.	Certain labeling information, including warnings, device descriptions, and study information.
Malfunction of the collection device may lead to possible exposure to infectious pathogens by laboratorians or individuals collecting fecal samples.	Certain labeling information, including warnings and device descriptions.

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 of the device. 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 final order.

Under the FD&C Act, submission of a premarket notification under section 510(k) is required to reasonably assure the safety and effectiveness of class II devices unless FDA determines that the device type should be exempt under section 510(m) of the FD&C Act. At this time FDA has not made this determination for devices to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples. This device is therefore 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 normally 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 quality management 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 § 866.2952 to subpart C to read as follows:

§ 866.2952 Device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples.

(a) *Identification.* A device to preserve and stabilize relative abundances of microbial nucleic acids in clinical samples is a device that consists of a container and reagents intended to stabilize microbial nucleic acids for the subsequent assessment of the relative abundance of microbial nucleic acids (*i.e.,* microbiome) in human specimens by an assay validated for use with the device. The device may also be indicated for sample collection. The device is not intended for preserving morphology or viability of microorganisms.

[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.

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

(1) The intended use on the device's label and labeling required under § 809.10 of this chapter must include a detailed description of the type(s) of human specimens intended for collection and preservation, and the characteristics of the microbial population intended for subsequent analysis.

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

(i) A detailed device description, including reagents, ancillary reagents required but not provided, and all other parts that make up the device.

(ii) A warning statement that the device is not for the detection of specific microbial pathogens.

(iii) A warning statement that the device should only be used with legally marketed assays that are indicated for use with the device, including, as appropriate, indicated for the relevant storage and transport conditions.

(iv) Description of the microorganisms used for studies, including the results and performance summaries, required under paragraph (b)(3)(i) of this section.

(3) Design verification and validation must include:

(i) Detailed documentation and results from studies used for device validation. This detailed documentation must include a detailed identification of each of the following (which must be representative of the spectrum of situations in which the device might be used that are within the scope of the device's intended use): the panel of microorganisms, the extraction platforms, the assay protocols used to measure the stabilization of relative ratios (relative abundance) of the microorganisms in the sample, and the bioinformatic pipelines used in the validation studies for the determination of relative abundances of preserved nucleic acids.

(ii) For devices intended for the collection of samples, detailed documentation and results from studies that demonstrate the device's usability, including user collection studies that demonstrate that the user instructions are appropriate for the intended collection methods (*e.g.,* self-collection or clinician/laboratory collection) and users.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–08811 Filed 5–5–26; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2026–N–4643]

Medical Devices; Immunology and Microbiology Devices; Classification of the Circulating Tumor Cell Enrichment Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the circulating tumor cell enrichment device 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 classification of the circulating tumor cell enrichment device. We are taking this action because we have determined that classifying the device into class II 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 6, 2026. The classification was applicable on May 24, 2022.

FOR FURTHER INFORMATION CONTACT: Soma Ghosh, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3316, Silver Spring, MD 20993–0002, 240–402–5333, *Soma.Ghosh@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA (the Agency or we) has classified the circulating tumor cell enrichment device into class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness of the device. 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 into, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (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 (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 classification 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 premarket notification (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.