



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
2098 Gaither Road
Rockville MD 20850

OCT 18 2002

Dr. P. Averbach
Nymox Corporation
230 West Passaic Street
Maywood, NJ 07607

Re: k021688
Trade/Device Name: NicAlert™
Regulation Number: 21 CFR 862.3220
Regulation Name: Carbon monoxide test system
Regulatory Class: Class I
Product Code: MRS; DIF
Dated: September 4, 2002
Received: September 9, 2002

Dear Dr. Averbach:

We have reviewed your Section 510(k) premarket notification of intent to market the device referenced above and have determined the device is substantially equivalent (for the indications for use stated in the enclosure) to legally marketed predicate devices marketed in interstate commerce prior to May 28, 1976, the enactment date of the Medical Device Amendments, or to devices that have been reclassified in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (Act) that do not require approval of a premarket approval application (PMA). You may, therefore, market the device, subject to the general controls provisions of the Act. The general controls provisions of the Act include requirements for annual registration, listing of devices, good manufacturing practice, labeling, and prohibitions against misbranding and adulteration.

If your device is classified (see above) into either class II (Special Controls) or class III (PMA), it may be subject to such additional controls. Existing major regulations affecting your device can be found in the Code of Federal Regulations, Title 21, Parts 800 to 898. In addition, FDA may publish further announcements concerning your device in the Federal Register.

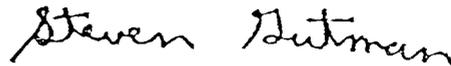
Please be advised that FDA's issuance of a substantial equivalence determination does not mean that FDA has made a determination that your device complies with other requirements of the Act or any Federal statutes and regulations administered by other Federal agencies. You must comply with all the Act's requirements, including, but not limited to: registration and listing (21 CFR Part 807); labeling (21 CFR Part 801); good manufacturing practice requirements as set forth in the quality systems (QS) regulation (21 CFR Part 820); and if applicable, the electronic product radiation control provisions (Sections 531-542 of the Act); 21 CFR 1000-1050.

Page 2 -

This letter will allow you to begin marketing your device as described in your 510(k) premarket notification. The FDA finding of substantial equivalence of your device to a legally marketed predicate device results in a classification for your device and thus, permits your device to proceed to the market.

If you desire specific advice for your device on our labeling regulation (21 CFR Part 801 and additionally 809.10 for in vitro diagnostic devices), please contact the Office of Compliance at (301) 594-4588. Additionally, for questions on the promotion and advertising of your device, please contact the Office of Compliance at (301) 594-4639. Also, please note the regulation entitled, "Misbranding by reference to premarket notification" (21CFR 807.97). Other general information on your responsibilities under the Act may be obtained from the Division of Small Manufacturers International and Consumer Assistance at its toll-free number (800) 638-2041 or (301) 443-6597 or at its internet address "<http://www.fda.gov/cdrh/dsma/dsmamain.html>".

Sincerely yours,



Steven I. Gutman, M.D., M.B.A.
Director
Division of Clinical Laboratory Devices
Office of Device Evaluation
Center for Devices and
Radiological Health

Enclosure

2. INDICATIONS FOR USE STATEMENT

INDICATIONS FOR USE

Applicant:

510(k) Number:

K021608

Device Name: NicAlert™

Indications for Use:

NicAlert™ is intended for in vitro diagnostic professional use for the semi-quantitative determination of cotinine in urine for the purpose of determining if an individual has been exposed to tobacco products such as cigarettes, pipes, or chewing tobacco within the past 48 hours. The cutoff concentration for the NicAlert™ test is 100 ng/mL. Second hand smoke exposure (environmental tobacco smoke) may cause a positive result in a non-user of tobacco products. The NicAlert™ Positive and Negative Controls are intended for in vitro diagnostic use for the quality control of the NicAlert™ test.

Sean Cooper

(D)
D: _____ Devices
510(k) Number: *K021647*

(PLEASE DO NOT WRITE BELOW THIS LINE)

Concurrence of CDRH, Office of Device Evaluation (ODE)

Participation Use

or

Over-the Counter Use