



Food and Drug Administration
10903 New Hampshire Avenue
Document Control Room W-066-0609
Silver Spring, MD 20993-0002

Dana Olsen, RAC
Regulatory Affairs Specialist
Dako Denmark A/S
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Denmark

OCT 20 2010

Re: P040005/S005
HER2 FISH pharmDx™ Kit
Filed: April 20, 2010
Amended: May 24, 2010; September 29, 2010
Procode: MVD

Dear Ms. Olsen:

The Center for Devices and Radiological Health (CDRH) of the Food and Drug Administration (FDA) has completed its review of your premarket approval application (PMA) supplement for *HER2* FISH pharmDx™ Kit. This device is indicated for:

For in vitro diagnostic use.

HER2 FISH pharmDx™ Kit is a direct fluorescence in situ hybridization (FISH) assay designed to quantitatively determine *HER2* gene amplification in formalin-fixed, paraffin-embedded (FFPE) breast cancer tissue specimens and FFPE specimens from patients with metastatic gastric or gastroesophageal junction adenocarcinoma.

HER2 FISH pharmDx™ Kit is indicated as an aid in the assessment of patients for whom Herceptin® (trastuzumab) treatment is being considered (see Herceptin® package insert).

We are pleased to inform you that the PMA supplement for this companion diagnostic product is approved in concurrence with the Center for Drug Evaluation (CDER) approval of the NDA for Herceptin® (trastuzumab) for metastatic gastric or gastroesophageal junction adenocarcinoma. You may begin commercial distribution of the device as modified in accordance with the conditions of approval described below.

The sale and distribution of this device are restricted to prescription use in accordance with 21 CFR 801.109 and under section 515(d)(1)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (the act). The device is further restricted under section 515(d)(1)(B)(ii) of the act insofar as the labeling must specify the specific training or experience practitioners need in order to use the device. FDA has determined that these restrictions on sale and distribution are necessary to provide reasonable assurance of the safety and effectiveness of the device. Your device is therefore a restricted device subject to the requirements in sections 502(q) and (r) of the act.

Expiration dating for this device has been established and approved at 18 months when stored at 2-8 °C.

Continued approval of this PMA is contingent upon the submission of periodic reports, required under 21 CFR 814.84, at intervals of one year (unless otherwise specified) from the date of approval of the original PMA. Two copies of this report, identified as "Annual Report" (please use this title even if the specified interval is more frequent than one year) and bearing the applicable PMA reference number, should be submitted to the address below. The Annual Report should indicate the beginning and ending date of the period covered by the report and should include the information required by 21 CFR 814.84.

In addition to the above, and in order to provide continued reasonable assurance of the safety and effectiveness of the device, the Annual Report must include, separately for each model number (if applicable), the number of devices sold and distributed during the reporting period, including those distributed to distributors. The distribution data will serve as a denominator and provide necessary context for FDA to ascertain the frequency and prevalence of adverse events, as FDA evaluates the continued safety and effectiveness of the device.

Before making any change affecting the safety or effectiveness of the device, you must submit a PMA supplement or an alternate submission (30-day notice) in accordance with 21 CFR 814.39. All PMA supplements and alternate submissions (30-day notice) must comply with the applicable requirements in 21 CFR 814.39. For more information, please refer to the FDA guidance document entitled, "Modifications to Devices Subject to Premarket Approval (PMA) - The PMA Supplement Decision-Making Process" (www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089274.htm).

You are reminded that many FDA requirements govern the manufacture, distribution, and marketing of devices. For example, in accordance with the Medical Device Reporting (MDR) regulation, 21 CFR 803.50 and 21 CFR 803.52, you are required to report adverse events for this device. Manufacturers of medical devices, including in vitro diagnostic devices, are required to report to FDA no later than 30 calendar days after the day they receive or otherwise becomes aware of information, from any source, that reasonably suggests that one of their marketed devices:

1. May have caused or contributed to a death or serious injury; or
2. Has malfunctioned and such device or similar device marketed by the manufacturer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

Additional information on MDR, including how, when, and where to report, is available at www.fda.gov/MedicalDevices/Safety/ReportaProblem/default.htm.

In accordance with the recall requirements specified in 21 CFR 806.10, you are required to submit a written report to FDA of any correction or removal of this device initiated by you to:

(1) reduce a risk to health posed by the device; or (2) remedy a violation of the act caused by the device which may present a risk to health, with certain exceptions specified in 21 CFR 806.10(a)(2). Additional information on recalls is available at www.fda.gov/Safety/Recalls/IndustryGuidance/default.htm.

CDRH does not evaluate information related to contract liability warranties. We remind you; however, that device labeling must be truthful and not misleading. CDRH will notify the public of its decision to approve your PMA by making available, among other information, a summary of the safety and effectiveness data upon which the approval is based. The information can be found on the FDA CDRH Internet HomePage located at www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/PMAApprovals/default.htm. Written requests for this information can also be made to the Dockets Management Branch, (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. The written request should include the PMA number or docket number. Within 30 days from the date that this information is placed on the Internet, any interested person may seek review of this decision by submitting a petition for review under section 515(g) of the act and requesting either a hearing or review by an independent advisory committee. FDA may, for good cause, extend this 30-day filing period.

Failure to comply with any post-approval requirement constitutes a ground for withdrawal of approval of a PMA. The introduction or delivery for introduction into interstate commerce of a device that is not in compliance with its conditions of approval is a violation of law.

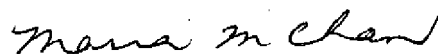
You are reminded that, as soon as possible and before commercial distribution of your device, you must submit an amendment to this PMA submission with copies of all approved labeling in final printed form. Final printed labeling that is identical to the labeling approved in draft form will not routinely be reviewed by FDA staff when accompanied by a cover letter stating that the final printed labeling is identical to the labeling approved in draft form. If the final printed labeling is not identical, any changes from the final draft labeling should be highlighted and explained in the amendment.

All required documents should be submitted in triplicate, unless otherwise specified, to the address below and should reference the above PMA number to facilitate processing. One of those three copies may be an electronic copy (eCopy), in an electronic format that FDA can process, review and archive (general information: <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/PremarketSubmissions/ucm134508.htm>; clinical and statistical data: <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/PremarketSubmissions/ucm136377.htm>)

U.S. Food and Drug Administration
Center for Devices and Radiological Health
PMA Document Mail Center – WO66-G609
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

If you have any questions concerning this approval order, please contact Karen Bijwaard at (301) 796-6162.

Sincerely yours,

A handwritten signature in cursive script that reads "Maria M. Chan".

Maria M. Chan, Ph.D
Director
Division of Immunology and Hematology Devices
Office of In Vitro Diagnostic Device
Evaluation and Safety
Center for Devices and Radiological Health