



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
10903 New Hampshire Avenue
Document Mail Center - WO66-G609
Silver Spring, MD 20993-0002

Gillian Crutcher, CLS, CIS
Director, Clinical/Regulatory Operations
Vermillion, Inc.
47350 Fremont Blvd.
Fremont, CA 94538

SEP 11 2009

Re: K081754 OVA1™ Test
Evaluation of Automatic Class III Designation
Regulation Number: 21 CFR 866.6050
Classification: Class II
Product Code: ONX

Dear Ms. Crutcher,

The Center for Devices and Radiological Health (CDRH) of the Food and Drug Administration (FDA) has completed its review of your Evaluation of Automatic Class III Designation Petition (de novo) for classification of the OVA1™ Test as a prescription device under 21 CFR Part 801.109 that is intended for use as a qualitative serum test that combines the results of five immunoassays into a single numerical score. It is indicated for women who meet the following criteria: over age 18; ovarian adnexal mass present for which surgery is planned, and not yet referred to an oncologist. The OVA1™ Test is an aid to further assess the likelihood that malignancy is present when the physician's independent clinical and radiological evaluation does not indicate malignancy. The test is not indicated for use as a screening or stand-alone diagnostic assay. FDA concludes that this device, and substantially equivalent devices of this generic type, should be classified into class II. This order, therefore, classifies the OVA1™ Test, and substantially equivalent devices of this generic type into class II under the generic name, ovarian adnexal mass assessment score test system. This order also identifies the special controls applicable to this device if put into class II.

FDA identifies this generic type of device as:

21 CFR 866.6050 Ovarian adnexal mass assessment score test system. An ovarian/adnexal mass assessment test is a device that measures one or more proteins in serum. It yields a single result for the likelihood that an adnexal pelvic mass in a woman, for whom surgery is planned, is malignant. The test is for adjunctive use, in the context of a negative primary clinical and radiological evaluation, to augment the identification of patients whose gynecologic surgery requires oncology expertise and resources.

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)) (the act), devices that were not in commercial distribution prior to May 28, 1976 (the

date of enactment of the Medical Device Amendments of 1976 (the amendments)), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act (21 U.S.C. 360c(i)), to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the FDA regulations (21 CFR 807).

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) for a device may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1), request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA shall, within 60 days of receiving such a request classify the device. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** classifying the device type.

On July 22, 2009, FDA filed your petition requesting classification of the OVA1™ Test into class II. The petition was submitted under section 513(f)(2) of the act. In accordance with section 513(f)(1) of the act, FDA issued an order on July 16, 2009 automatically classifying the OVA1™ Test in class III, because it was not within a type of device which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, nor which was subsequently reclassified into class I or class II. In order to classify the OVA1™ Test into class I or II, it is necessary that the proposed class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

After review of the information submitted in the petition, FDA has determined that the OVA1™ Test, indicated for women who are over age 18 with an ovarian adnexal mass for which surgery is planned, and not yet referred to gynecologic oncologists, as an aid to further assess the likelihood that malignancy is present when the physician's independent clinical and radiological evaluation does not indicate malignancy, can be classified in class II with the establishment of special controls for class II. FDA believes that class II special controls provide reasonable assurance of the safety and effectiveness of the device type.

FDA has identified the following risks to health related to use of ovarian adnexal mass assessment score test system: Failure of the assay to perform as indicated could lead to inappropriate assessment and improper management of patients with ovarian malignancies. Specifically, a falsely low ovarian adnexal mass score could result in a determination that the patient may not have ovarian malignancy, which could lead to less than optimal surgical expertise and resources. A falsely high ovarian adnexal mass score could result in a determination that the patient may have ovarian malignancy which could lead to inappropriate surgical decisions and unnecessary patient anxiety. Off-label use of the assay (e.g., in patients who are not already identified as needing surgery for pelvic mass, or without reference to an independent clinical/radiologic evaluation of the patient), may lead to a high frequency of unnecessary further testing and surgery due to false positive results or to delay in tumor

diagnosis due to false negative results. The measures FDA recommends to mitigate these risks are described in the guidance document entitled “Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System,” which includes recommendations for performance validation and labeling.

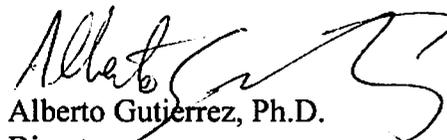
In addition to the general controls of the act, the OVA1™ Test is subject to the following three special controls: (1) “Class II Special Controls Guidance Document: Ovarian Adnexal Mass Assessment Score Test System,” which includes recommendations for performance validation and labeling; (2) sale, distribution, and use in accordance with the prescription device requirements in 21 C.F.R. 801.109; and (3) placement of warning statements that address the risks identified in the special controls guidance document in a black box. Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device type. FDA has determined premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device type and, therefore, the device is not exempt from the premarket notification requirements of the act. Thus, persons who intend to market this device type must submit to FDA a premarket notification submission containing information on the ovarian adnexal mass assessment score test system they intend to market prior to marketing the device and receive clearance to market from FDA.

A notice announcing this classification order will be published in the **Federal Register**. A copy of this order and supporting documentation are on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD 20852 and are available for inspection between 9 a.m. and 4 p.m., Monday through Friday.

As a result of this order, you may immediately market your device as described in the de novo, subject to the general control provisions of the act and the special controls identified in this order.

If you have any questions concerning this classification order, please contact Donna Roscoe at 301-796-6183.

Sincerely yours,



Alberto Gutierrez, Ph.D.

Director

Office of *In Vitro* Diagnostic Device
Evaluation and Safety

Center for Devices and Radiological Health