§ 878.1 Scope.
878.4014 Nonresorbable gauze/sponge for external use.
878.4015 Wound dressing with poly (diethylene dimethyl ammonium chloride) (pDADMAC) additive.
878.4018 Hydrophilic wound dressing.
878.4020 Occlusive wound dressing.
878.4022 Hydrogel wound dressing and burn dressing.
878.4025 Silicone sheeting.
878.4040 Surgical apparel.
878.4100 Organ bag.
878.4160 Surgical camera and accessories.
878.4200 Introduction/drainage catheter and accessories.
878.4300 Implantable clip.
878.4320 Removable skin clip.
878.4340 Contact cooling system for aesthetic use.
878.4350 Cryosurgical unit and accessories.
878.4360 Scalp cooling system to reduce the likelihood of chemotherapy-induced alopecia.
878.4370 Surgical drape and drape accessories.
878.4380 Drape adhesive.
878.4400 Electrosurgical cutting and coagulation device and accessories.
878.4410 Low energy ultrasound wound cleaner.
878.4480 Absorbable powder for lubricating a surgeon's glove.
878.4490 Absorbable hemostatic agent and dressing.
878.4492 Absorbable poly(glycolic-l-lactide) surgical suture.
878.4494 Absorbable poly(hydroxybutyrate) surgical suture produced by recombinant DNA technology.
878.4520 Polytetrafluoroethylene injectable.
878.4540 Surgical lamp.
878.4560 Topical oxygen chamber for extremities.
878.4660 Skin marker.
878.4670 Internal tissue marker.
878.4680 Non-powered, single patient, portable suction apparatus.
878.4683 Non-Powered suction apparatus device intended for negative pressure wound therapy.
878.4700 Surgical microscope and accessories.
878.4730 Surgical skin degreaser or adhesive tape solvent.
878.4750 Implantable staple.
878.4755 Absorbable lung biopsy plug.
878.4756 Removable skin staple.
878.4780 Powered suction pump.
878.4790 Powered surgical instrument for improvement in the appearance of cellulite.
878.4810 Manual surgical instrument for general use.
878.4820 Surgical instrument motors and accessories.
878.4830 Absorbable surgical gut suture.
878.4840 Absorbable polydioxanone surgical suture.
878.4850 Manual operating table and accessories and manual operating chair and accessories.
878.4860 Operating tables and accessories and operating chairs and accessories.
878.5000 Nonabsorbable polyethylene terephthalate (surgical suture).
878.5010 Nonabsorbable polypropylene surgical suture.
878.5020 Nonabsorbable polyamide surgical suture.
878.5030 Natural nonabsorbable silk surgical suture.
878.5035 Nonabsorbable expanded polytetrafluoroethylene surgical suture.
878.5040 Suction lipoplasty system.

Subpart F—Therapeutic Devices
878.5050 Air-handling apparatus for a surgical operating room.
878.5310 Needle-type epilator.
878.5390 Tweezer-type epilator.
878.5400 Low level laser system for aesthetic use.
878.5650 Topical oxygen chamber for extremities.
878.5900 Nonpneumatic tourniquet.
878.5910 Pneumatic tourniquet.

Subpart A—General Provisions
§ 878.1 Scope.
(a) This part sets forth the classification of general and plastic surgery devices intended for human use that are in commercial distribution.
(b) The identification of a device in a regulation in this part is not a precise description of every device that is,
will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under part 807 cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by §807.87 of this chapter.

(c) To avoid duplicative listings, a general and plastic surgery device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in one subpart only.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

(e) Guidance documents referenced in this part are available on the Internet at http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.

§ 878.3 Effective dates of requirement for premarket approval.

A device included in this part that is classified into class III (premarket approval) shall not be commercially distributed after the date shown in the regulation classifying the device unless the manufacturer has an approval under section 515 of the act (unless an exemption has been granted under section 520(g)(2) of the act). An approval under section 515 of the act consists of FDA’s issuance of an order approving a PMA or declaring completed a PDP for the device.

(a) Before FDA requires that a device commercially distributed before the enactment date of the amendments, or a device that has been found substantially equivalent to such a device, has an approval under section 515 of the act, FDA must promulgate a regulation under section 515(b) of the act requiring such approval, except as provided in paragraphs (b) and (c) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regulation for a device classified into class III in this part, the device may be commercially distributed without FDA’s issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a “new” device as defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

(c) A device identified in a regulation in this part that is classified into class III and that is subject to the transitional provisions of section 520(l) of the act is automatically classified by statute into class III and must have an approval under section 515 of the act before being commercially distributed. Accordingly, the regulation for such a class III transitional device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

§ 878.3 Effective dates of requirement for premarket approval.
§ 878.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

The exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I or II device is only to the extent that the device has existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type or, in the case of in vitro diagnostic devices, only to the extent that misdiagnosis as a result of using the device would not be associated with high morbidity or mortality. Accordingly, manufacturers of any commercially distributed class I or II 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 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 2317, Jan. 14, 2000]

Subpart B—Diagnostic Devices

§ 878.1800 Speculum and accessories.

(a) Identification. A speculum is a device intended to be inserted into a body cavity to aid observation. It is either nonilluminated or illuminated and may have various accessories.

(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 §878.9.


Subpart C [Reserved]

Subpart D—Prosthetic Devices

§ 878.3250 External facial fracture fixation appliance.

(a) Identification. An external facial fracture fixation appliance is a metal apparatus intended to be used during surgical reconstruction and repair to immobilize maxillofacial bone fragments in their proper facial relationship.

(b) Classification. Class I (general controls). The device is exempt from the premarket notification procedures in