



## DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Public Health Service

Food and Drug Administration  
 10903 New Hampshire Avenue  
 Document Control Room W-066-0609  
 Silver Spring, MD 209 3-0002

FEB 25 2010

Binder Biomedical, Inc.  
 % Mr. Lawrence Binder  
 President and CEO  
 2385 NW Executive Center Drive  
 Suite 100  
 Boca Raton, Florida 33431

Re: K093015

Trade/Device Name: Binder Intervertebral Body Fusion Device  
 Regulation Number: 21 CFR 888.3080  
 Regulation Name: Intervertebral body fusion device  
 Regulatory Class: Class II  
 Product Code: MAX  
 Dated: February 17, 2010  
 Received: February 19, 2010

Dear Mr. Binder:

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 indication and 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. Please note: CDRH does not evaluate information related to contract liability or warranties. We remind you; however, that device labeling must be truthful and not misleading.

If your device is classified (see above) into either class II (Special Controls) or class III (PMA) it may be subject to 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

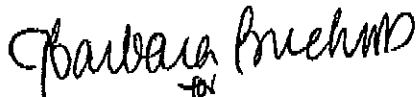
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comply with all the Act's requirements, including, but not limited to: registration and listing (21 CFR Part 807); labeling (21 CFR Part 801); medical device reporting (reporting of medical device-related adverse events) (21 CFR 803); good manufacturing 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.

If you desire specific advice for your device on our labeling regulation (21 CFR Part 801), please go to <http://www.fda.gov/AboutFDA/CentersOffices/CDRH/CDRHOffices/ucm115809.htm> for the Center for Devices and Radiological Health's (CDRH's) Office of Compliance. Also, please note the regulation entitled, "Misbranding by reference to premarket notification" (21 CFR Part 807.97). For questions regarding the reporting of adverse events under the MDR regulation (21 CFR Part 803), please go to <http://www.fda.gov/MedicalDevices/Safety/ReportaProblem/default.htm> for the CDRH's Office of Surveillance and Biometrics/Division of Postmarket Surveillance.

You may obtain other general information on your responsibilities under the Act from the Division of Small Manufacturers, International and Consumer Assistance at its toll-free number (800) 638-2041 or (301) 796-7100 or at its Internet address <http://www.fda.gov/MedicalDevices/ResourcesforYou/Industry/default.htm>.

Sincerely yours,



Mark N. Melkerson  
Director  
Division of Surgical, Orthopedic  
And Restorative Devices  
Office of Device Evaluation  
Center for Devices and  
Radiological Health

Enclosure

**IV. INDICATIONS FOR USE STATEMENT**

510(k) Number (if known): K093015

Device Name: Binder Intervertebral Body Fusion Device

**Indications for Use:**

The Binder Intervertebral Body Fusion Device ("Binder Fusion System") is indicated for use in patients with degenerative disc disease (DDD) at one (1) or two (2) contiguous levels of the lumbosacral spine (L2-S1). DDD is defined as discogenic back pain with degeneration of the disc confirmed by history and radiographic studies. These patients should be skeletally mature and have had at least six (6) months of non-operative treatment. In addition, these patients may have had a previous non-fusion spinal surgery at the involved level(s) and may have had up to a Grad 1 spondylolisthesis or retrolisthesis at the involved level(s). The Binder Fusion devices are to be used with autogenous bone graft material and supplemental fixation.

Prescription Use   X  

Over-The-Counter Use \_\_\_\_\_

AND/OR

(Part 21 CFR 801 Subpart D)

(21 CFR 801 Subpart C)

(PLEASE DO NOT WRITE BELOW THIS LINE-CONTINUE ON ANOTHER PAGE IF NEEDED)

Concurrence of CDRH, Office of Device Evaluation (ODE)

  
\_\_\_\_\_  
(Division Sign-Off)  
Division of Surgical, Orthopedic,  
and Restorative Devices

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