



DEC. 20. 2006 3:23PM

FDA-CDRH-ODE-POS

NO. 0944 P. 1/3

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration  
209B Gaither Road  
Rockville MD 20850

Barbara A. Bagby  
Akers Biosciences, Inc.  
201 Grove Road  
Thorofare, NJ 08086

DEC 18 2006

Re: k062971  
Trade/Device Name: Breath Alcohol ✓<sup>®</sup>.02 Detection System  
BreathScan<sup>®</sup>.02 Breath Alcohol Detection System  
Regulation Number: 21 CFR 862.3050  
Regulation Name: Breath-alcohol test system  
Regulatory Class: Class I, reserved  
Product Code: DJZ  
Dated: September 28, 2006  
Received: September 29, 2006

Dear Ms. Bagby:

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 Title 21, Code of Federal Regulations (CFR), Parts 800 to 895. In addition, FDA may publish further announcements concerning your device in the Federal Register.

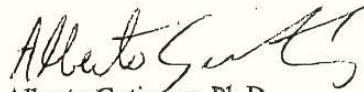
Please be advised that FDA's issuance of a substantial equivalence determination does not mean that FDA has made a determination that your device complies with other requirements of the Act or any Federal statutes and regulations administered by other Federal agencies. You must comply with all the Act's requirements, including, but not limited to: registration and listing (21 CFR Part 807); labeling (21 CFR Parts 801 and 809); and good manufacturing practice requirements as set forth in the quality systems (QS) regulation (21 CFR Part 820).

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This letter will allow you to begin marketing your device as described in your Section 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 information about the application of labeling requirements to your device, or questions on the promotion and advertising of your device, please contact the Office of In Vitro Diagnostic Device Evaluation and Safety at (240) 276-0484. Also, please note the regulation entitled, "Misbranding by reference to premarket notification" (21CFR Part 807.97). 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) 443-6597 or at its Internet address <http://www.fda.gov/cdrh/industry/support/index.html>.

Sincerely yours,



Alberto Gutierrez, Ph.D.

Director

Division of Chemistry and Toxicology

Office of In Vitro Diagnostic Device

Evaluation and Safety

Center for Devices and

Radiological Health

Enclosure

## Indications for Use

510(k) Number (if known): k062971

Device Name: Breath Alcohol  <sup>®</sup>.02 Detection System  
BreathScan <sup>®</sup>.02 Breath Alcohol Detection System

### Indications For Use:

The Breath Alcohol  <sup>®</sup>.02 Detection System and BreathScan <sup>®</sup>.02 Breath Alcohol Detection System are *in vitro* medical devices that qualitatively detect the presence of alcohol in the human breath. The test system detects equal to or greater than 0.02 percent breath alcohol. The system is used only as a screening device and is only an indication of the possible presence of alcohol in the blood of the test subject.

Prescription Use \_\_\_\_\_  
(Part 21 CFR 801 Subpart D)

AND/OR

Over-The-Counter Use   x    
(21 CFR 801 Subpart C)

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

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Concurrence of CDRH, Office of In Vitro Diagnostic Devices (OIVD)

  
\_\_\_\_\_  
Signature Sign-Off

Office of In Vitro Diagnostic Device  
Evaluation and Safety

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