

United States agent as part of its initial and updated registration information in accordance with subpart B of this part. Each foreign establishment shall designate only one United States agent and may designate the United States agent to act as its official correspondent.

(1) The United States agent shall reside or maintain a place of business in the United States.

(2) Upon request from FDA, the United States agent shall assist FDA in communications with the foreign establishment, respond to questions concerning the foreign establishment's products that are imported or offered for import into the United States, and assist FDA in scheduling inspections of the foreign establishment. If the agency is unable to contact the foreign establishment directly or expeditiously, FDA may provide information or documents to the United States agent, and such an action shall be considered to be equivalent to providing the same information or documents to the foreign establishment.

(3) The foreign establishment or the United States agent shall report changes in the United States agent's name, address, or phone number to FDA within 10-business days of the change.

(c) No device may be imported or offered for import into the United States unless it is the subject of a device listing as required under subpart B of this part and is manufactured, prepared, propagated, compounded, or processed at a registered foreign establishment; however, this restriction does not apply to devices imported or offered for import under the investigational use provisions of part 812 of this chapter or to a component, part, or accessory of a device or other article of a device imported under section 801(d)(3) of the act. The establishment registration and device listing information shall be in the English language.

[66 FR 59160, Nov. 27, 2001]

Subpart D—Exemptions

§ 807.65 Exemptions for device establishments.

The following classes of persons are exempt from registration in accord-

ance with § 807.20 under the provisions of section 510(g)(1), (g)(2), and (g)(3) of the act, or because the Commissioner of Food and Drugs has found, under section 510(g)(5) of the act, that such registration is not necessary for the protection of the public health. The exemptions in paragraphs (d), (e), (f), and (i) of this section are limited to those classes of persons located in any State as defined in section 201(a)(1) of the act.

(a) A manufacturer of raw materials or components to be used in the manufacture or assembly of a device who would otherwise not be required to register under the provisions of this part.

(b) A manufacturer of devices to be used solely for veterinary purposes.

(c) A manufacturer of general purpose articles such as chemical reagents or laboratory equipment whose uses are generally known by persons trained in their use and which are not labeled or promoted for medical uses.

(d) Licensed practitioners, including physicians, dentists, and optometrists, who manufacture or otherwise alter devices solely for use in their practice.

(e) Pharmacies, surgical supply outlets, or other similar retail establishments making final delivery or sale to the ultimate user. This exemption also applies to a pharmacy or other similar retail establishment that purchases a device for subsequent distribution under its own name, e.g., a properly labeled health aid such as an elastic bandage or crutch, indicating "distributed by" or "manufactured for" followed by the name of the pharmacy.

(f) Persons who manufacture, prepare, propagate, compound, or process devices solely for use in research, teaching, or analysis and do not introduce such devices into commercial distribution.

(g) [Reserved]

(h) Carriers by reason of their receipt, carriage, holding or delivery of devices in the usual course of business as carriers.

(i) Persons who dispense devices to the ultimate consumer or whose major responsibility is to render a service necessary to provide the consumer (i.e., patient, physician, layman, etc.) with a device or the benefits to be derived from the use of a device; for example, a

hearing aid dispenser, optician, clinical laboratory, assembler of diagnostic x-ray systems, and personnel from a hospital, clinic, dental laboratory, orthotic or prosthetic retail facility, whose primary responsibility to the ultimate consumer is to dispense or provide a service through the use of a previously manufactured device.

[42 FR 42526, Aug. 23, 1977, as amended at 58 FR 46523, Sept. 1, 1993; 61 FR 44615, Aug. 28, 1996; 65 FR 17136, Mar. 31, 2000; 66 FR 59160, Nov. 27, 2001]

Subpart E—Premarket Notification Procedures

§ 807.81 When a premarket notification submission is required.

(a) Except as provided in paragraph (b) of this section, each person who is required to register his establishment pursuant to § 807.20 must submit a premarket notification submission to the Food and Drug Administration at least 90 days before he proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use which meets any of the following criteria:

(1) The device is being introduced into commercial distribution for the first time; that is, the device is not of the same type as, or is not substantially equivalent to, (i) a device in commercial distribution before May 28, 1976, or (ii) a device introduced for commercial distribution after May 28, 1976, that has subsequently been reclassified into class I or II.

(2) The device is being introduced into commercial distribution for the first time by a person required to register, whether or not the device meets the criteria in paragraph (a)(1) of this section.

(3) The device is one that the person currently has in commercial distribution or is reintroducing into commercial distribution, but that is about to be significantly changed or modified in design, components, method of manufacture, or intended use. The following constitute significant changes or modifications that require a premarket notification:

(i) A change or modification in the device that could significantly affect

the safety or effectiveness of the device, e.g., a significant change or modification in design, material, chemical composition, energy source, or manufacturing process.

(ii) A major change or modification in the intended use of the device.

(b) A premarket notification under this subpart is not required for a device for which a premarket approval application under section 515 of the act, or for which a petition to reclassify under section 513(f)(2) of the act, is pending before the Food and Drug Administration.

(c) In addition to complying with the requirements of this part, owners or operators of device establishments that manufacture radiation-emitting electronic products, as defined in § 1000.3 of this chapter, shall comply with the reporting requirements of part 1002 of this chapter.

§ 807.85 Exemption from premarket notification.

(a) A device is exempt from the premarket notification requirements of this subpart if the device intended for introduction into commercial distribution is not generally available in finished form for purchase and is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for commercial distribution, and the device meets one of the following conditions:

(1) It is intended for use by a patient named in the order of the physician or dentist (or other specially qualified person); or

(2) It is intended solely for use by a physician or dentist (or other specially qualified person) and is not generally available to, or generally used by, other physicians or dentists (or other specially qualified persons).

(b) A distributor who places a device into commercial distribution for the first time under his own name and a repackager who places his own name on a device and does not change any other labeling or otherwise affect the device shall be exempted from the premarket notification requirements of this subpart if:

(1) The device was in commercial distribution before May 28, 1976; or