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(b)(1) of this section shall be submitted and handled in accordance with part 20 of this chapter.


§ 807.39 Misbranding by reference to establishment registration or to registration number.

Registration of a device establishment or assignment of a registration number does not in any way denote approval of the establishment or its products. Any representation that creates an impression of official approval because of registration or possession of a registration number is misleading and constitutes misbranding.

Subpart C—Registration Procedures for Foreign Device Establishments

§ 807.40 Establishment registration and device listing for foreign establishments importing or offering for import devices into the United States.

(a) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a device that is imported or offered for import into the United States shall register and list such devices in conformance with the requirements in subpart B of this part unless the device enters a foreign trade zone and is re-exported from that foreign trade zone without having entered U. S. commerce. The official correspondent for the foreign establishment shall facilitate communication between the foreign establishment’s management and representatives of the Food and Drug Administration for matters relating to the registration of device establishments and the listing of device products.

(b) Each foreign establishment required to register under paragraph (a) of this section shall submit the name, address, and phone number of its 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 accordance 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
§ 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 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.

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

(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.