

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-601 effective Dec. 30, 1970, and regulations establishing special packaging standards effective no sooner than 180 days or later than one year from date regulations are final, or an earlier date published in Federal Register, see section 8 of Pub. L. 91-601, set out as an Effective Date note under section 1471 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-618 effective July 12, 1960, subject to the provisions of section 203 of Pub. L. 86-618, see section 202 of Pub. L. 86-618, set out as a note under section 379e of this title.

EFFECTIVE DATE; POSTPONEMENT

Par. (b) effective Jan. 1, 1940, and such subsection effective July 1, 1940, as provided by regulations for certain lithographed labeling and containers bearing certain labeling, see act June 23, 1939, ch. 242, 53 Stat. 853, set out as an Effective Date; Postponement in Certain Cases note under section 301 of this title.

CONSTRUCTION; CONFIDENTIALITY

Nothing in amendment made by Pub. L. 117-328, to be construed to authorize the disclosure of information that is prohibited from disclosure under section 331(j) of this title or section 1905 of title 18 or that is subject to withholding under section 552(b)(4) of title 5, see section 3503(c)(2) of Pub. L. 117-328, set out as a note under section 364 of this title.

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.

§ 363. Regulations making exemptions

The Secretary shall promulgate regulations exempting from any labeling requirement of this chapter cosmetics which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such cosmetics are not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

(June 25, 1938, ch. 675, § 603, 52 Stat. 1054.)

Executive Documents

TRANSFER OF FUNCTIONS

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration in the Department of Agriculture to Federal Security Agency, see notes set out under section 321 of this title.

§ 364. Definitions

In this subchapter:

(1) Adverse event

The term “adverse event” means any health-related event associated with the use of a cosmetic product that is adverse.

(2) Cosmetic product

The term “cosmetic product” means a preparation of cosmetic ingredients with a quali-

tatively and quantitatively set composition for use in a finished product.

(3) Facility

(A) IN GENERAL.—The term “facility” includes any establishment (including an establishment of an importer) that manufactures or processes cosmetic products distributed in the United States.

(B) Such term does not include any of the following:

(i) Beauty shops and salons, unless such establishment manufactures or processes cosmetic products at that location.

(ii) Cosmetic product retailers, including individual sales representatives, direct sellers (as defined in section 3508(b)(2) of title 26), retail distribution facilities, and pharmacies, unless such establishment manufactures or processes cosmetic products that are not sold directly to consumers at that location.

(iii) Hospitals, physicians’ offices, and health care clinics.

(iv) Public health agencies and other non-profit entities that provide cosmetic products directly to the consumer.

(v) Entities (such as hotels and airlines) that provide complimentary cosmetic products to customers incidental to other services.

(vi) Trade shows and other venues where cosmetic product samples are provided free of charge.

(vii) An establishment that manufactures or processes cosmetic products that are solely for use in research or evaluation, including for production testing and not offered for retail sale.

(viii) An establishment that solely performs one or more of the following with respect to cosmetic products:

- (I) Labeling.
- (II) Relabeling.
- (III) Packaging.
- (IV) Repackaging.
- (V) Holding.
- (VI) Distributing.

(C) CLARIFICATION.—For the purposes of subparagraph (B)(viii), the terms “packaging” and “repackaging” do not include filling a product container with a cosmetic product.

(4) Responsible person

The term “responsible person” means the manufacturer, packer, or distributor of a cosmetic product whose name appears on the label of such cosmetic product in accordance with section 364e(a) of this title or section 1453(a) of title 15.

(5) Serious adverse event

The term “serious adverse event” means an adverse event that—

- (A) results in—
 - (i) death;
 - (ii) a life-threatening experience;
 - (iii) inpatient hospitalization;
 - (iv) a persistent or significant disability or incapacity;
 - (v) a congenital anomaly or birth defect;
 - (vi) an infection; or