

have been removed from previous operations. Inspection shall also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection shall be documented in the batch production records.

[43 FR 45077, Sept. 29, 1978, as amended at 58 FR 41354, Aug. 3, 1993]

**§211.132 Tamper-evident packaging requirements for over-the-counter (OTC) human drug products.**

(a) *General.* The Food and Drug Administration has the authority under the Federal Food, Drug, and Cosmetic Act (the act) to establish a uniform national requirement for tamper-evident packaging of OTC drug products that will improve the security of OTC drug packaging and help assure the safety and effectiveness of OTC drug products. An OTC drug product (except a dermatological, dentifrice, insulin, or lozenge product) for retail sale that is not packaged in a tamper-resistant package or that is not properly labeled under this section is adulterated under section 501 of the act or misbranded under section 502 of the act, or both.

(b) *Requirements for tamper-evident package.* (1) Each manufacturer and packer who packages an OTC drug product (except a dermatological, dentifrice, insulin, or lozenge product) for retail sale shall package the product in a tamper-evident package, if this product is accessible to the public while held for sale. A tamper-evident package is one having one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred. To reduce the likelihood of successful tampering and to increase the likelihood that consumers will discover if a product has been tampered with, the package is required to be distinctive by design or by the use of one or more indicators or barriers to entry that employ an identifying characteristic (e.g., a pattern, name, registered trademark, logo, or picture). For purposes of this section, the term "distinctive by design" means the packaging cannot be duplicated with commonly available materials or through commonly available processes.

A tamper-evident package may involve an immediate-container and closure system or secondary-container or carton system or any combination of systems intended to provide a visual indication of package integrity. The tamper-evident feature shall be designed to and shall remain intact when handled in a reasonable manner during manufacture, distribution, and retail display.

(2) In addition to the tamper-evident packaging feature described in paragraph (b)(1) of this section, any two-piece, hard gelatin capsule covered by this section must be sealed using an acceptable tamper-evident technology.

(c) *Labeling.* (1) In order to alert consumers to the specific tamper-evident feature(s) used, each retail package of an OTC drug product covered by this section (except ammonia inhalant in crushable glass ampules, containers of compressed medical oxygen, or aerosol products that depend upon the power of a liquefied or compressed gas to expel the contents from the container) is required to bear a statement that:

(i) Identifies all tamper-evident feature(s) and any capsule sealing technologies used to comply with paragraph (b) of this section;

(ii) Is prominently placed on the package; and

(iii) Is so placed that it will be unaffected if the tamper-evident feature of the package is breached or missing.

(2) If the tamper-evident feature chosen to meet the requirements in paragraph (b) of this section uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement. For example, the labeling statement on a bottle with a shrink band could say "For your protection, this bottle has an imprinted seal around the neck."

(d) *Request for exemptions from packaging and labeling requirements.* A manufacturer or packer may request an exemption from the packaging and labeling requirements of this section. A request for an exemption is required to be submitted in the form of a citizen petition under §10.30 of this chapter and should be clearly identified on the envelope as a "Request for Exemption from the Tamper-Evident Packaging

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Rule.” The petition is required to contain the following:

(1) The name of the drug product or, if the petition seeks an exemption for a drug class, the name of the drug class, and a list of products within that class.

(2) The reasons that the drug product’s compliance with the tamper-evident packaging or labeling requirements of this section is unnecessary or cannot be achieved.

(3) A description of alternative steps that are available, or that the petitioner has already taken, to reduce the likelihood that the product or drug class will be the subject of malicious adulteration.

(4) Other information justifying an exemption.

(e) *OTC drug products subject to approved new drug applications.* Holders of approved new drug applications for OTC drug products are required under §314.70 of this chapter to provide the agency with notification of changes in packaging and labeling to comply with the requirements of this section. Changes in packaging and labeling required by this regulation may be made before FDA approval, as provided under §314.70(c) of this chapter. Manufacturing changes by which capsules are to be sealed require prior FDA approval under §314.70(b) of this chapter.

(f) *Poison Prevention Packaging Act of 1970.* This section does not affect any requirements for “special packaging” as defined under §310.3(1) of this chapter and required under the Poison Prevention Packaging Act of 1970.

(Approved by the Office of Management and Budget under OMB control number 0910–0149)

[54 FR 5228, Feb. 2, 1989, as amended at 63 FR 59470, Nov. 4, 1998]

### §211.134 Drug product inspection.

(a) Packaged and labeled products shall be examined during finishing operations to provide assurance that containers and packages in the lot have the correct label.

(b) A representative sample of units shall be collected at the completion of finishing operations and shall be visually examined for correct labeling.

(c) Results of these examinations shall be recorded in the batch production or control records.

### §211.137 Expiration dating.

(a) To assure that a drug product meets applicable standards of identity, strength, quality, and purity at the time of use, it shall bear an expiration date determined by appropriate stability testing described in §211.166.

(b) Expiration dates shall be related to any storage conditions stated on the labeling, as determined by stability studies described in §211.166.

(c) If the drug product is to be reconstituted at the time of dispensing, its labeling shall bear expiration information for both the reconstituted and unreconstituted drug products.

(d) Expiration dates shall appear on labeling in accordance with the requirements of §201.17 of this chapter.

(e) Homeopathic drug products shall be exempt from the requirements of this section.

(f) Allergenic extracts that are labeled “No U.S. Standard of Potency” are exempt from the requirements of this section.

(g) New drug products for investigational use are exempt from the requirements of this section, provided that they meet appropriate standards or specifications as demonstrated by stability studies during their use in clinical investigations. Where new drug products for investigational use are to be reconstituted at the time of dispensing, their labeling shall bear expiration information for the reconstituted drug product.

(h) Pending consideration of a proposed exemption, published in the FEDERAL REGISTER of September 29, 1978, the requirements in this section shall not be enforced for human OTC drug products if their labeling does not bear dosage limitations and they are stable for at least 3 years as supported by appropriate stability data.

[43 FR 45077, Sept. 29, 1978, as amended at 46 FR 56412, Nov. 17, 1981; 60 FR 4091, Jan. 20, 1995]

## Subpart H—Holding and Distribution

### §211.142 Warehousing procedures.

Written procedures describing the warehousing of drug products shall be