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Anticipating Direction Of Cosmetics Regulation Under Trump

By **Robbie Jost, Stephen Holland and Julia Carbonetti** (February 4, 2025, 6:46 PM EST)


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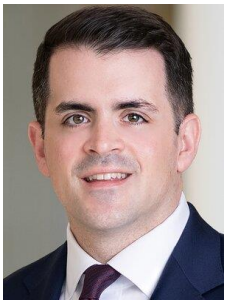
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President Donald Trump has returned to the White House and his administration, along with new senior leadership at the U.S. Department of Health and Human Services and the U.S. Food and Drug Administration, will have new authority to regulate cosmetics that did not exist during his first term.

That is primarily because the Modernization of Cosmetics Regulation Act, signed into law by President Joe Biden in 2022, instituted the first major reform to cosmetic product regulation in over 83 years.

Implementation and enforcement of MoCRA are likely to follow a different trajectory under the Trump administration, however. Though MoCRA requires the FDA to publish certain rules and take certain actions, the delays and lack of funding that plagued MoCRA's rollout under the Biden administration are likely to be compounded in the coming years.

And to the extent a second Trump administration means decreased regulation, cosmetic companies may be subject to additional requirements at the state level if more states decide to step in and increase regulation over cosmetics.

Below, we summarize recent developments and anticipated next steps for regulation of cosmetics under the new political leadership.

MoCRA Implementation Takes Shape

Since MoCRA was signed into law in 2022, several new requirements have gone into effect, though implementation has generally moved more slowly than Congress mandated in the statute.

Under these relatively new requirements, all cosmetic products sold in the U.S. must have a label with the address, phone number or electronic contact information of the responsible person to receive adverse event reports.

Manufacturers and processors are required to register facilities with the FDA. The responsible person must list each cosmetic product with the FDA, including listing product ingredients.

The responsible person must report all serious adverse events to the FDA within 15 business days. And in late December 2024, the FDA proposed a rule[1] for establishing standardized testing methods for detecting asbestos in cosmetic products containing talc.

Despite ongoing implementation delays, current law and the FDA's regulatory agenda[2] suggest that 2025 will nonetheless be a significant year for MoCRA implementation.

For instance, MoCRA required the FDA to issue a rule on fragrance allergen labeling by June 2024. While this rule has not yet been released, the rule is pending for release at the Office of Management and Budget, and the agency's regulatory agenda indicates that it should be released this month.

However, the cosmetics industry should expect this rule to face further delay. Shortly after taking office, the Trump administration froze all pending regulations to enable the placement of new officials at the OMB and federal agencies.

The FDA was also required to publish a proposed rule establishing good manufacturing practices for facilities that manufacture, distribute or process cosmetic products by Dec. 29, 2024, and issue a final rule by Dec. 29, 2025.

The agency said in its Fall 2024 regulatory agenda that it now expects the proposed rule establishing good manufacturing practices to be delayed until October 2025, which likely means that the final rule will be significantly delayed as well.

MoCRA further mandates that by Dec. 29, the FDA must assess the use and safety of per- and polyfluoroalkyl substances, or PFAS, in cosmetic products and issue a report with its findings.

Below is a more detailed summary of the various MoCRA requirements and their status.

MoCRA Action Item	**Requirements**	**Status**
Adverse Event Reporting	Companies are required to report serious adverse events associated with the use of cosmetic products within 15 business days of receiving report.	In effect as of Dec. 29, 2023
Safety Substantiation	Companies are required to obtain and maintain records supporting adequate safety substantiation for each cosmetic product.	In effect as of Dec. 29, 2023
Mandatory Recall Authority	The FDA can issue mandatory recall order if a company fails to voluntarily recall products that are adulterated, misbranded, or the cause of serious adverse health events or death.	In effect as of Dec. 29, 2023
Facility	Facilities that manufacture,	Enforced by the FDA as

Registration	distribute or process cosmetics need to register their facility with the FDA and update the registration every two years.	of July 1, 2024
Product Listing	All manufacturers, packers and distributors of cosmetics whose names appear on product labels must submit a list of all cosmetic products and their ingredients to the FDA.	Enforced by the FDA as of July 1, 2024
Labeling	All cosmetic products must have labels with the domestic address, phone number or electronic contact information of the people responsible for adverse event reporting.	In effect as of Dec. 29, 2024
Standardized Testing for Talc Products	The FDA must issue a regulation establishing mandatory standardized testing methods for detecting asbestos in cosmetic products containing talc.	Proposed rule published on Dec. 27, 2024
Fragrance Allergen Rule	The FDA must issue a regulation establishing fragrance allergen labeling requirements for cosmetic products.	Deadline for proposed rule was June 29, 2024, potentially expected in January 2025, but likely to be further delayed
Good Manufacturing Practices	The FDA must issue a regulation establishing GMPs for facilities manufacturing, distributing and packing cosmetic products to ensure products are produced and controlled according to quality standards.	Deadline for proposed Rule was Dec. 29, 2024, now expected in October 2025
Report on PFAS in Cosmetics	The FDA must assess and report on the use and safety of PFAS in cosmetic products.	To be issued by Dec. 29, 2025

Cosmetics in the Trump Administration

Trump has not, to date, made any specific pledges or public statements on the regulatory landscape for cosmetic products, including the future of MoCRA.

But some actions, including his emphasis on deregulation and his embrace of Robert F. Kennedy Jr.'s Make America Healthy Again movement, may provide insight into the administration's approach to cosmetic regulation.

Deregulation and DOGE

Shortly after his election, Trump appointed Tesla and SpaceX CEO Elon Musk to run a new organization called the Department of Government Efficiency.

Trump's announcement of the organization presented it as an advisory group to the administration, recommending avenues for IT infrastructure improvements, deregulation and cutting government spending.

The executive order creating DOGE focused on its information technology infrastructure duties, but many observers expect the mandate of the organization to remain flexible and to examine further deregulatory efforts, raising questions about the application of the new wave of regulation of cosmetics required under MoCRA.

MoCRA mandates many new requirements for both the FDA and the industry, which will apply regardless of the recommendations or efforts of DOGE. However, as seen in the initial implementation period of MoCRA, the Trump administration may delay rollout of new rules or exercise enforcement discretion, creating regulatory uncertainty for the cosmetics industry.

When discussing MoCRA, FDA officials have cited concerns with a lack of funding in implementing the law and have requested additional funding. Thus far, little funding has been appropriated by Congress, which has caused much of the delay in rolling out the new rules and guidance required by MoCRA.

With its mandate to cut government spending, DOGE and Congress may be hesitant to prioritize funding the implementation of MoCRA, which may further limit implementation and resources for MoCRA enforcement. Musk has also publicly called for cutting the federal workforce, which may further affect and delay rulemaking under and enforcement of MoCRA.

Kennedy and Make America Healthy Again

Another development with the potential to affect MoCRA and cosmetics regulation is Trump's nomination of Kennedy to be the HHS secretary. In this role, Kennedy would oversee 11 agencies, including the FDA.

While he has not expressed strong opinions about cosmetics or MoCRA to date, Kennedy has a long record of making statements critical of artificial food dyes, many of which are also used in cosmetic products. Kennedy has also openly doubted the safety of other products regulated by the FDA, including additives, processed foods, vaccines and other pharmaceuticals.

It remains to be seen how Kennedy may influence cosmetics regulation, but given his concerns with coloring chemicals, many in the industry will pay close attention to his U.S. Senate confirmation hearings.

Trade and Tariffs

Trump has also begun the process of implementing tariffs on U.S. trading partners, with an emphasis on escalated tariffs for Chinese goods, along with tariffs on goods imported from Canada and Mexico.

Even when final product forms are manufactured in the U.S., many companies in the cosmetic industry may rely on sourcing certain raw materials and ingredients from outside the U.S., increasing the risk of increased costs due to tariffs or other challenges related to trade restrictions.

Cosmetics manufacturers should assess risks related to their supply chain and may want to develop proactive strategies for business operations in the face of new trade challenges.

Clash With State Attorneys General

Several states have taken steps to regulate ingredients used in cosmetics by limiting or even banning the use of certain ingredients that may be potentially harmful or toxic. This trend does not appear to be slowing down.

With the potential for deregulation at the federal level from the Trump administration, cosmetic companies can expect increased scrutiny on their ingredients and marketing claims that may be driven by state regulation and consumer litigation.

Overall Takeaways

At bottom, there is uncertainty over what the Trump administration will mean for the current and upcoming MoCRA requirements and the cosmetic industry at large, which could result in disruption and regulatory uncertainty for businesses attempting to input policies and procedures according to current FDA guidance.

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[1] FDA News Release: FDA Proposes Rule to Require Standardized Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products, available at https://www.fda.gov/news-events/press-announcements/fda-proposes-rule-require-standardized-testing-methods-detecting-and-identifying-asbestos-talc.

[2] Agency Rule List – Fall 2024, Department of Health and Human Services, available at https://www.reginfo.gov/public/do/eAgendaMain.