

foreign firm to package dietary supplements for sale in the United States, the imported product would have to comply with the requirements in proposed part 111. In addition, the U.S. firm would be required to meet all applicable CGMP regulations under this proposed CGMP rule related to those activities in which it engages under the proposed rule. We invite comment on how best to ensure that dietary ingredients and dietary supplements exported to the United States have been manufactured, packaged, and held consistent with part 111.

This proposal does not include requirements for safety testing in animals and humans for certain types of dietary ingredients and dietary supplements. As discussed in several parts of this preamble, you are responsible for ensuring that the dietary ingredients or dietary supplements that you make are safe prior to marketing such products. Although we are focusing on the manufacturing steps in actual production and distribution of dietary ingredients and dietary supplements, there may be the need for specific regulations related to the use of animal tissue. We invite comment on whether there is a need for such specific regulations.

III. Description of the Proposed Rule

This proposal will supercede what the agency said about the placement in Title 21 of the Code of Federal Regulations for any regulations resulting from the proposed rule for dietary supplements containing ephedrine alkaloids (62 FR 30678, June 4, 1997). That proposal included proposed revisions of part 111 and the table of contents for part 111 and we are now proposing those for 21 CFR part 112 (as explained below).

This proposal for dietary supplement CGMPs amends part 111 (21 CFR part 111), revising the heading from "Current Good Manufacturing Practice for Dietary Supplements" to "Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements." Proposed part 111, with the heading "Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements," includes only the CGMP for dietary supplements and the table of contents contains categorical CGMP practices in subparts A through H.

Further, we propose the heading and table of contents for part 112. Proposed part 112 has the heading "Restrictions for Substances Used in Dietary Supplements." The table of contents for proposed part 112 includes: Subpart A

"General Provisions" [Reserved]; Subpart B "New Dietary Ingredients" [Reserved]; and Subpart C "Restricted Dietary Ingredients" [Reserved]. Proposed subpart C would include restrictions for substances used in dietary supplements, such as the proposed rule for dietary supplements containing ephedrine alkaloids, if finalized.

These proposed changes are made for ease of use and clarity. CGMP regulations will be found more easily if located in one part, part 111, and clarity will be enhanced by using subparts to organize categorical CGMP practices. Similarly, restrictions for substances used in dietary supplements will be found more easily if located in one part, part 112, and clarity will be enhanced if the restrictions for substances used in dietary supplements are located in one subpart, subpart C.

The proposed part 111 consists of eight subparts. Several of the proposed provisions in the CGMP regulations for dietary ingredients and dietary supplements are similar to the CGMP regulations for food products at part 110. However, we edited the text in many cases to make the proposed rule easier to read and to understand consistent with plain language principles under the presidential memorandum of June 1, 1998 (Ref. 43). Some provisions are derived from the industry outline that we included in the ANPRM; others are derived from comments we received on the ANPRM or from our outreach efforts described previously. We also developed provisions based on our knowledge and expertise in the areas of dietary supplements, manufacturing, and contamination.

We tentatively decided to exclude certain CGMP requirements in part 110 for food products because they do not appear to be appropriate for dietary ingredients and dietary supplements. There are differences in the nature of the product (*i.e.*, conventional food versus dietary ingredients or dietary supplements) and in the manufacturing practices used to produce the product that require specific practices appropriate for dietary ingredients and dietary supplements. We invite comment on whether any provision from part 110 that we have not included should be included in this proposed CGMP for dietary ingredients and dietary supplements.

A. General Provisions (Proposed Subpart A)

Proposed subpart A contains five provisions that would provide basic information to the reader.

1. Who Is Subject to These Part III Regulations? (Proposed § 111.1)

Proposed § 111.1 entitled "Who is subject to these regulations?" describes the scope of the rule. Proposed § 111.1 states that you are subject to the requirements in part 111 if you manufacture, package, or hold a dietary ingredient or dietary supplement. As stated previously in this document, in our response to question 9 of the ANPRM, this proposed CGMP rule would apply to a wide variety of activities associated with the manufacture, packaging, and holding of dietary ingredients and dietary supplement products. These activities include labeling, testing, quality control, holding, and distribution. For example, if you contract with a manufacturer to perform an operation subject to proposed part 111, you will need to comply with those regulations directly applicable to the operation that you perform. For example, if you are a firm that has contracted with a dietary supplement manufacturer to package a dietary supplement, you are responsible for complying with all the regulations, including recordkeeping, that would otherwise be required of a manufacturer who does its own onsite packaging. Further, if you are a manufacturer and you contract with a firm to perform a particular manufacturing step, you would remain responsible for ensuring that such step is done in a manner that complies with the requirements in proposed part 111. As in the previous example, a manufacturer who contracts with a firm to package a product is still responsible for the actions of its contractor for the packaging activities and must ensure that its contractor complies with the applicable CGMP regulations.

Proposed part 111 also would apply to foreign firms that manufacture, package, or hold dietary ingredients and dietary supplements that are imported or offered for import into the United States, unless imported for further processing and export under section 801(d)(3) of the act, to persons who distribute such imported dietary ingredients and dietary supplements, and to persons who export dietary ingredients and dietary supplements from the United States, unless exported in compliance with section 801(e).

One comment to the ANPRM, relating to the scope of the CGMPs, requested an exemption from the CGMP for "herbalist" practitioners who individually manufacture dietary supplements for their clients.

We decline to exempt herbalist practitioners from the proposed rule. If