

dietary ingredient, dietary supplement, packaging, or label. This review will reveal whether the monitoring is actually being done and being done correctly, and whether the specifications are being met; and

- Make a material disposition decision for any component, dietary ingredient, dietary supplement, packaging, or label if:

1. A component, dietary ingredient, dietary supplement, packaging, or label fails to meet specifications;

2. Any step established in the master manufacturing record is not completed;

3. There is any unanticipated occurrence during the manufacturing operations that adulterates or may lead to adulteration of the component, dietary ingredient, dietary supplement, packaging, or label; or

4. Calibration of an instrument or control suggests a problem that may have caused batches of a dietary ingredient or dietary supplement to become adulterated; and

5. A dietary ingredient or dietary supplement is returned.

- Have your quality control unit approve any material review and disposition decision.

You should review the public health significance of any deviations from specifications or of any unexpected occurrences to ensure that dietary ingredients and dietary supplements that may have been affected adversely by a deviation do not enter the marketplace. A material review and disposition decision would ensure that the disruption of a manufacturer's business is minimized when a deviation does occur. For example, if review of a dietary supplement formulation does not contain the required identity, purity, quality, strength, or composition, you can take steps to dispose of the formulation before it is packaged and labeled. If the monitoring records are not reviewed, a dietary supplement made with a deficient formulation may be placed on the market, and a costly and embarrassing recall may be necessary.

Proposed § 111.35(i)(4) would require that for any deviation or unanticipated occurrence which resulted in or could lead to adulteration of the component, dietary ingredient, dietary supplement, packaging, or label, the proposal would require that you reject the component, dietary ingredient, dietary supplement, packaging, or label, unless the quality control unit determines that inprocess adjustments are possible to correct the deviation or occurrence. You would be able to reprocess a rejected component, dietary ingredient, or dietary supplement if the quality control unit

approves such reprocessing. However, the proposal states that you must not reprocess any component, dietary ingredient or dietary supplement if it is rejected because of contamination with microorganisms or other contaminants, such as heavy metals. We propose to prohibit reprocessing in such cases because it is unlikely that reprocessing will eliminate such forms of contamination or will eliminate such contamination without adversely affecting the component, dietary ingredient, or dietary supplement.

Proposed § 111.35(i)(5) would require that this review be conducted by an individual from the quality control unit. This is necessary to ensure that the review is conducted by a person who is qualified by training and experience to conduct such reviews and who understands the production and inprocess control system, understands the significance of a processing deviation, and knows how to respond to a deviation. This will ensure that the review that is conducted and the response to any deviation is appropriate. The requirements of this section do not mean that the manufacturer needs a large number of employees.

Proposed § 111.35(j) would require the person who conducts the material review and makes the disposition decision to document, at the time of performance, every material review and disposition decision in proposed § 111.35(i). The documentation must be included in the batch production record. Proposed § 111.35(j) would require this documentation to:

- Identify the specific deviation from the specification or the unanticipated occurrence;

- Describe your investigation into the cause of the deviation from the specification or the unanticipated occurrence;

- Evaluate whether or not the deviation from the specification or unanticipated occurrence has resulted in or could lead to adulteration;

- Identify the action(s) taken to correct and prevent a recurrence of the deviation or the unanticipated occurrence; and

- Discuss what you did with the component, dietary ingredient, dietary supplement, packaging, or label. For example, did you segregate the component? Did you quarantine it until the quality control unit decided whether it should be returned to its supplier, reprocessed, or destroyed?

Proposed § 111.35(k) would require that you test or examine components, dietary ingredients, and dietary supplements for those types of

contamination that may adulterate or may lead to adulteration.

The proposal also would require that you use an appropriate scientifically valid methodology for the test or examination. We discuss analytical methods in more detail elsewhere in this document in our discussion of laboratory operations, proposed § 111.60. The types of contamination covered by proposed § 111.35(k) include, but are not limited to, the following:

- Filth, insects, or other extraneous material;

- Microorganisms; and

- Toxic substances.

Under this proposed requirement, you must test or examine for those types of contamination that may adulterate or may lead to adulteration. The words, "for those types of contamination that may adulterate or may lead to adulteration," at least in part, mean that you must test a botanical for filth and microorganisms of public health significance. For example, it is highly likely or certain that botanical components would be contaminated with filth and undesirable microorganisms of public health significance based on the areas in which they are harvested. Therefore, it would be inappropriate if you did not test botanical components for filth and microorganisms. The types of tests and when to test would be left to your discretion. The proposed rule would not specify any particular test or examination, so you would be able to decide on the appropriate methods for testing or examination that are suited to your components, dietary ingredients, and dietary supplements.

Contamination also can create conditions that promote further contamination by other organisms. For example, contamination resulting from possible fungal growth on a botanical component can provide the environment for mycotoxin production, especially aflatoxin (Refs. 63 and 64). Therefore, if a toxic substance is a type of contamination that may adulterate or lead to adulteration of the dietary ingredient or dietary supplement, you must perform an appropriate test to detect the toxic substance.

In other cases, a certain amount of micro flora on a botanical may be unavoidable. For example, some botanical components always will contain a certain number of microorganisms that live on the plant or come from other organisms (micro flora) on the plant. Processing these components may destroy a substantial number of the microorganisms, but some may survive processing (Ref. 65).