

III. Comments on the Proposed Rule

FDA received 13 sets of written comments on the proposed rule from manufacturers, trade associations, advocacy groups, consulting firms, and individuals. The majority of the comments supported FDA's proposal to require that the content of certain labeling be submitted electronically in a form that FDA can process, review, and archive. A few comments requested clarification on various aspects of the rule and one comment opposed the exemptions from specific controls under part 11. A summary of the comments received and the agency's responses follows:

A. General Comments

(Comment 1) One comment identified as a typographical error the citation of § 314.50(l). The comment suggested that § 314.50(l)(1)(i) was being referenced as (1)(1)(i).

(Response) This is not a typographical error; we are citing to § 314.50(l)(1)(i) in the proposed rule, but the lower case letter L ("l") looks similar to the number 1.

(Comment 2) One comment recommended adding changes to § 314.70 and § 601.12 to address labeling supplements.

(Response) FDA believes that § 314.70 and § 601.12 do not need any changes because the recommended requirements already exist.

Under § 314.71, all procedures that apply to an application under § 314.50 also apply to supplement submissions. Thus, by amending the provisions in § 314.50, the final rule also covers the requirements for labeling supplements. Similarly, § 601.14 requires applicants for biological products subject to the requirements of § 201.100(d)(3) to submit the content of labeling in BLAs, supplements, and annual reports electronically in a form that FDA can process, review, and archive.

(Comment 3) One comment stated that it supported the adoption of regulations to require bar coding for all pharmaceuticals.

(Response) The agency is pursuing bar coding initiatives separately from this rulemaking. A proposed rule to require bar codes on certain human drug product labels and biological product labels was published in the **Federal Register** of March 14, 2003 (68 FR 12500). This final rule deals solely with the content of labeling for human prescription drugs and biologics submitted to FDA in electronic format that FDA can process, review, and archive.

(Comment 4) Although supportive of the proposed rule, one comment was

concerned about industry initiatives to use this rule to advocate for electronic versions as a substitute for printed patient inserts (PPIs).⁶ The comment expressed concern that this rule could serve as a basis for the elimination of printed PPIs.

(Response) FDA understands the comment's concern, but the agency's regulation of PPIs is unrelated to the requirement to submit the content of labeling electronically. This rule requires that the content of labeling (i.e., the content of the package insert or professional labeling, including all text, tables, and figures) be submitted electronically. It does not alter the current regulatory treatment of PPIs. The PPIs can be submitted in paper or electronic format under part 11. If the PPI is submitted electronically, it must appear in the electronic format as it would in printed form.

(Comment 5) One comment mentioned that this rule will enable the agency to move forward with other initiatives to make labeling more rapidly available. The comment asks the agency to consider providing certain recommendations on a standard database for labeling and standard display formats for viewing labels.

(Response) FDA welcomes the comment, and we are working on several initiatives to make labeling more readily available to the public. This rule is a necessary step to provide FDA with the information needed to improve the readability, organization, and access to labeling information, including the possibility of using the information in a standard database.

B. Applicability/Scope of the Proposed Rule

(Comment 6) One comment requested that FDA clarify whether the Circular of Information for the Use of Human Blood Components (the Circular) is exempt from this rule. The comment stated that the Circular is prepared on a biannual basis by a committee representing all blood organizations and a single submission is made to FDA. The same version of the Circular is used by the majority of licensed blood establishments.

(Response) It is true that FDA reviews a version of the Circular that a consortium of blood establishments submits periodically. Although individual blood establishments may use different versions of the Circular and must submit those versions in supplemental applications to FDA, the

amount of variation from the FDA-recognized Circular is so minimal that electronic submission is not necessary at this time. Therefore, the final rule does not require the submission of the Circular to the agency in electronic format.

(Comment 7) Several comments asked for clarification of the following statement in the proposed rule: "This proposed requirement would be in addition to existing requirements, described in section I.A of this document, that copies of the label and labeling and specimens of enclosures be submitted." The comments requested that the agency explicitly state that no paper copies of labeling are to be submitted.

(Response) The content of labeling is a new labeling type not previously required in the regulations to be submitted. The content of labeling, defined as the contents of the package insert or professional labeling, including all text, tables, and figures for prescription products approved under an ANDA, BLA, or NDA, does not replace any previously required labeling type, including the package insert. In other words, the regulations require the package insert to be submitted in addition to the content of labeling. However, no paper copies of any labeling are required. As discussed in our response to comment 4, the applicant has the option of providing the package insert in paper or electronic format under part 11. The package insert, if submitted electronically, must appear as it would in printed form. Submission in this form allows us to evaluate the format of the package insert, such as font size and positioning of the text.

(Comment 8) A few comments asked for clarification of whether the rule requires the submission in electronic format of all types of labeling, such as carton and container labels, labels submitted with advertising material, and labeling that might be submitted with periodic adverse drug experience reports.

(Response) The agency did not intend that the final rule require the electronic submission of the previously mentioned types of labeling. The rule requires only that the content of labeling (i.e. the content of the package insert or professional labeling, including all text, tables, and figures) be submitted in electronic format.

(Comment 9) Some comments requested clarification of whether the rule restricts the submission of labeling in electronic format to the content of labeling.

⁶ The comment refers to patient package inserts as "PIs." FDA, though, refers to such inserts as "PPIs."