

of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In March 1997, FDA issued final regulations (part 11) that provided criteria for acceptance by FDA, under certain circumstances, of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records and handwritten signatures executed on paper (62 FR 13430, March 20, 1997). These regulations, which apply to all FDA program areas, were intended to permit the widest possible use of electronic technology, consistent with FDA's responsibility to protect the public health.

Since part 11 became effective in August 1997, significant discussions have ensued between industry, contractors, and the agency concerning

the interpretation and implementation of the rule. Concerns have been raised that some interpretations of the part 11 requirements would: (1) Unnecessarily restrict the use of electronic technology in a manner that is inconsistent with FDA's stated intent in issuing the rule, (2) significantly increase the costs of compliance to an extent that was not contemplated at the time the rule was drafted, and (3) discourage innovation and technological advances without providing a significant public health benefit. These concerns have been raised particularly in the areas of part 11 requirements for validation, audit trails, record retention, record copying, and legacy systems.

This document provides guidance to persons who, in fulfillment of a requirement in a statute or another part of FDA's regulations to maintain records or submit information to FDA, have chosen to maintain the records or submit designated information electronically and, as a result, have become subject to part 11.

This draft guidance announces that we intend to exercise enforcement discretion with respect to the validation, audit trail, record retention, and record copying requirements of part 11. However, records must still be maintained or submitted in accordance with the underlying predicate rules. We also intend to exercise enforcement discretion and will not normally take regulatory action to enforce part 11 with regard to systems that were operational before August 20, 1997, the effective date of part 11 (commonly known as existing or legacy systems) while we are reexamining part 11.

It is important to note that FDA's exercise of enforcement discretion as described in this guidance is limited to the specified part 11 requirements. We intend to enforce all other provisions of part 11 including, but not limited to, certain controls for closed systems in § 11.10, the corresponding controls for open systems (§ 11.30), and requirements related to electronic signatures (e.g., §§ 11.50, 11.70, 11.100, 11.200, and 11.300). We expect continued compliance with these provisions, and we will continue to enforce them.

In the **Federal Register** of February 4, 2003 (68 FR 5645), we announced the withdrawal of the draft guidance entitled "Guidance for Industry, 21 CFR Part 11; Electronic Records; Electronic Signatures, Electronic Copies of Electronic Records" because we wished to limit the time spent by industry reviewing and commenting on the guidance, which might not have been

representative of FDA's approach under the CGMP initiative.

At this time, we are also announcing the withdrawal of CPG 7153.17 and previously published part 11 draft guidance documents on validation, glossary of terms, time stamps, and maintenance of electronic records. FDA has determined that it might cause confusion to leave standing these other draft guidances on part 11 and CPG 7153.17. FDA received valuable public comment on the draft guidances and plans to use that information to inform the agency's future decisionmaking with respect to part 11.

This level 1 draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, if finalized, will represent the agency's current thinking on "Part 11, Electronic Records, Electronic Signatures—Scope and Application." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments to <http://www.fda.gov/dockets/ecomments> or two hard copies of any written comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at <http://www.fda.gov/cder/guidance/index.htm>, <http://www.fda.gov/ora> under "Compliance References," or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: February 19, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

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