

(b) The Joint Sectoral Committee will be cochaired by a representative of the Food and Drug Administration (FDA) for the United States and a representative of the European Community (EC) who each will have one vote. Decisions will be taken by unanimous consent.

(c) The Joint Sectoral Committee's functions will include:

(1) Making a joint assessment, which must be agreed by both parties, of the equivalence of the respective authorities;

(2) Developing and maintaining the list of equivalent authorities, including any limitation in terms of inspecting type or products, and communicating the list to all authorities and the Joint Committee;

(3) Providing a forum to discuss issues relating to this subpart, including concerns that an authority may be no longer equivalent and opportunity to review product coverage; and

(4) Consideration of the issue of suspension.

(d) The Joint Sectoral Committee shall meet at the request of either party and, unless the cochaIRS otherwise agree, at least once each year. The Joint Committee will be kept informed of the agenda and conclusions of meetings of the Joint Sectoral Committee.

§ 26.18 Regulatory collaboration.

(a) The parties and authorities shall inform and consult one another, as permitted by law, on proposals to introduce new controls or to change existing technical regulations or inspection procedures and to provide the opportunity to comment on such proposals.

(b) The parties shall notify each other in writing of any changes to Appendix B of this subpart.

§ 26.19 Information relating to quality aspects.

The authorities will establish an appropriate means of exchanging information on any confirmed problem reports, corrective actions, recalls, rejected import consignments, and other regulatory and enforcement problems for products subject to this subpart.

§ 26.20 Alert system.

(a) The details of an alert system will be developed during the transitional period. The system will be maintained in place at all times. Elements to be considered in developing such a system are described in Appendix E of this subpart.

(b) Contact points will be agreed between both parties to permit authorities to be made aware with the appropriate speed in case of quality defect, recalls, counterfeiting, and other problems concerning quality, which could necessitate additional controls or suspension of the distribution of the product.

§ 26.21 Safeguard clause.

Each party recognizes that the importing country has a right to fulfill its legal responsibilities by taking actions necessary to ensure the protection of human and animal health at the level of protection it deems appropriate. This includes the suspension of the distribution, product detention at the border of the importing country, withdrawal of the batches and any request for additional information or inspection as provided in § 26.12.

APPENDIX A TO SUBPART A OF PART 26— LIST OF APPLICABLE LAWS, REGULATIONS, AND ADMINISTRATIVE PROVISIONS

1. For the European Community (EC):

[Copies of EC documents may be obtained from the European Document Research, 1100 17th St. NW., suite 301, Washington, DC 20036. EC documents may be viewed on the European Commission Pharmaceuticals Units web site at <http://dg3.eudra.org>.]

Council Directive 65/65/EEC of 26 January 1965 on the approximation of provisions laid down by law, regulation, or administrative action relating to proprietary medicinal products as extended, widened, and amended. Council Directive 75/319/EEC of 20 May 1975 on the approximation of provisions laid down by law, regulation or administrative action relating to proprietary medicinal products as extended, widened and amended.

Council Directive 81/851/EEC of 28 September 1981 on the approximation of the laws of the Member States relating to veterinary medicinal products, as widened and amended.

Commission Directive 91/356/EEC of 13 June 1991 laying down the principles and guidelines of good manufacturing practice for medicinal products for human use.

Commission Directive 91/412/EEC of 23 July 1991 laying down the principles and guidelines of good manufacturing practice for veterinary medicinal products.

Council Regulation EEC No 2309/93 of 22 July 1993 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Agency for the Evaluation of Medicinal Products.

Council Directive 92/25/EEC of 31 March 1992 on the wholesale distribution of medicinal products for human use.

Guide to Good Distribution Practice (94/C 63/03).

Current version of the Guide to Good Manufacturing Practice, Rules Governing Medicinal Products in the European Community, Volume IV.

2. For the United States:

[Copies of FDA documents may be obtained from the Government Printing Office, 1510 H St. NW., Washington, DC 20005. FDA documents, except the FDA Compliance Program Guidance Manual, may be viewed on FDA's Internet web site at <http://www.fda.gov>.]

Relevant sections of the United States Federal Food, Drug, and Cosmetic Act and the United States Public Health Service Act.

Relevant sections of Title 21, United States Code of Federal Regulations (CFR) Parts 1–99, Parts 200–299, Parts 500–599, and Parts 600–799.

Relevant sections of the FDA Investigations Operations Manual, the FDA Regulatory Procedures Manual, the FDA Compliance Policy Guidance Manual, the FDA Compliance Program Guidance Manual, and other FDA guidances.

APPENDIX B TO SUBPART A OF PART 26— LIST OF AUTHORITIES

1. For the United States: In the United States, the regulatory authority is the Food and Drug Administration.

2. For the European Community: In the European Community, the regulatory authorities are the following:

Belgium: Inspection générale de la Pharmacie, Algemene Farmaceutische Inspectie.

Denmark: Laegemiddelstyrelsen.

Germany: Bundesministerium für Gesundheit für immunologicals: Paul-Ehrlich-Institut, Federal Agency for Sera and Vaccines.

Greece: Εθνικός Οργανισμός Φαρμάκων, Ministry of Health and Welfare, National Drug Organization (E.O.F).

Spain: For medicinal products for human use: Ministerio de Sanidad y Consumo, Subdirección General de Control Farmacéutico. For medicinal products for

veterinary use: Ministerio de Agricultura, Pesca y Alimentación (MAPA), Dirección General de la Producción Agraria.

France: For medicinal products for human use: Agence du Médicament. For veterinary medicinal products: Agence Nationale du Médicament Vétérinaire.

Ireland: Irish Medicines Board.

Italy: For medicinal products for human use: Ministero della Sanità, Dipartimento Farmaci e Farmacovigilanza. For medicinal products for veterinary use: Ministero della Sanità, Dipartimento alimenti e nutrizione e sanità pubblica veterinaria-Div. IX.

Luxembourg: Division de la Pharmacie et des Médicaments.

Netherlands: Staat der Nederlanden.

Austria: Bundesministerium für Arbeit, Gesundheit und Soziales.

Portugal: Instituto da Farmácia e do Medicamento (INFARMED).

Finland: Lääkelaitos/Läkemedelsverket (National Agency for Medicines).

Sweden: Läkemedelsverket-Medical Products Agency.

United Kingdom: For human use and veterinary (non-immunologicals): Medicines Control Agency. For veterinary immunologicals: Veterinary Medicines Directorate.

European Community: Commission of the European Communities. European Agency for the Evaluation of Medicinal Products (EMEA).

APPENDIX C TO SUBPART A OF PART 26— INDICATIVE LIST OF PRODUCTS COVERED BY SUBPART A

Recognizing that precise definition of medicinal products and drugs are to be found in the legislation referred to above, an indicative list of products covered by this arrangement is given below:

—human medicinal products including prescription and nonprescription drugs;

—human biologicals including vaccines, and immunologicals;

—veterinary pharmaceuticals, including prescription and nonprescription drugs, with the exclusion of veterinary immunologicals (Under 9 CFR 101.2 “veterinary immunologicals” are referred to as “veterinary biologicals”);

—premixes for the preparation of veterinary medicated feeds (EC), Type A medicated articles for the preparation of veterinary medicated feeds (United States);

—intermediate products and active pharmaceutical ingredients or bulk pharmaceuticals (United States)/starting materials (EC).

APPENDIX D TO SUBPART A OF PART 26—
CRITERIA FOR ASSESSING EQUIVA-
LENCE FOR POST- AND
PREAPPROVAL

I. Legal/Regulatory authority and structures and procedures providing for post- and preapproval:

- A. Appropriate statutory mandate and jurisdiction.
- B. Ability to issue and update binding requirements on GMP's and guidance documents.
- C. Authority to make inspections, review and copy documents, and to take samples and collect other evidence.
- D. Ability to enforce requirements and to remove products found in violation of such requirements from the market.
- E. Substantive current good manufacturing requirements.
- F. Accountability of the regulatory authority.
- G. Inventory of current products and manufacturers.
- H. System for maintaining or accessing inspection reports, samples and other analytical data, and other firm/product information relating to matters covered by subpart A of this part.

II. Mechanisms in place to assure appropriate professional standards and avoidance of conflicts of interest.

III. Administration of the regulatory authority:

- A. Standards of education/qualification and training.
- B. Effective quality assurance systems measures to ensure adequate job performance.
- C. Appropriate staffing and resources to enforce laws and regulations.

IV. Conduct of inspections:

- A. Adequate preinspection preparation, including appropriate expertise of investigator/team, review of firm/product and databases, and availability of appropriate inspection equipment.
- B. Adequate conduct of inspection, including statutory access to facilities, effective response to refusals, depth and competence of evaluation of operations, systems and documentation; collection of evidence; appropriate duration of inspection and completeness of written report of observations to firm management.
- C. Adequate postinspection activities, including completeness of inspectors' report, inspection report review where appropriate, and conduct of followup inspections and other activities where appropriate, assurance of preservation and retrieval of records.

V. Execution of regulatory enforcement actions to achieve corrections, designed to prevent future violations, and to remove products found in violation of requirements from the market.

VI. Effective use of surveillance systems:

- A. Sampling and analysis.
- B. Recall monitoring.
- C. Product defect reporting system.
- D. Routine surveillance inspections.
- E. Verification of approved manufacturing process changes to marketing authorizations/approved applications.

VII. Additional specific criteria for preapproval inspections:

- A. Satisfactory demonstration through a jointly developed and administered training program and joint inspections to assess the regulatory authorities' capabilities.
- B. Preinspection preparation includes the review of appropriate records, including site plans and drug master file or similar documentation to enable adequate inspections.
- C. Ability to verify chemistry, manufacturing, and control data supporting an application is authentic and complete.
- D. Ability to assess and evaluate research and development data as scientifically sound, especially transfer technology of pilot, scale up and full scale production batches.
- E. Ability to verify conformity of the onsite processes and procedures with those described in the application.
- F. Review and evaluate equipment installation, operational and performance qualification data, and evaluate test method validation.

APPENDIX E TO SUBPART A OF PART 26—
ELEMENTS TO BE CONSIDERED IN DE-
VELOPING A TWO-WAY ALERT SYS-
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1. Documentation

- Definition of a crisis/emergency and under what circumstances an alert is required
- Standard Operating Procedures (SOP's)
- Mechanism of health hazards evaluation and classification
- Language of communication and transmission of information

2. Crisis Management System

- Crisis analysis and communication mechanisms
- Establishment of contact points
- Reporting mechanisms

3. Enforcement Procedures

- Followup mechanisms
- Corrective action procedures

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4. Quality Assurance System

—Pharmacovigilance programme
—Surveillance/monitoring of implementation of corrective action

5. Contact Points

For the purpose of subpart A of this part, the contact points for the alert system will be:

A. For the European Community:

the Executive Director of the European Agency for the Evaluation of Medicinal Products, 7, Westferry Circus, Canary Wharf, UK - London E14 4HB, England. Telephone 44-171-418 8400, Fax 418-8416.

B. For the United States :

Biologics: Director, Office of Compliance and Biologics Quality (HFM-600), 1401 Rockville Pike, Rockville, MD 20852, phone: 301-827-6190, fax: 301-594-1944.

Human Drugs: Director, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, MD 20857, phone: 301-827-8910, fax: 301-827-8901.

Veterinary Drugs: Director, Office of Surveillance and Compliance (HFV-200), MPN II, 7500 Standish Pl., Rockville, MD 20855-2773, phone: 301-827-6644, fax: 301-594-1807.

[63 FR 60141, Nov. 6, 1998, as amended at 69 FR 48775, Aug. 11, 2004]

Subpart B—Specific Sector Provisions for Medical Devices

§ 26.31 Purpose.

(a) The purpose of this subpart is to specify the conditions under which a party will accept the results of quality system-related evaluations and inspections and premarket evaluations of the other party with regard to medical devices as conducted by listed conformity assessment bodies (CAB's) and to provide for other related cooperative activities.

(b) This subpart is intended to evolve as programs and policies of the parties evolve. The parties will review this subpart periodically, in order to assess progress and identify potential enhancements to this subpart as Food and Drug Administration (FDA) and European Community (EC) policies evolve over time.

§ 26.32 Scope.

(a) The provisions of this subpart shall apply to the exchange and, where appropriate, endorsement of the following types of reports from con-

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formity assessment bodies (CAB's) assessed to be equivalent:

(1) Under the U.S. system, surveillance/postmarket and initial/preapproval inspection reports;

(2) Under the U.S. system, premarket (510(k)) product evaluation reports;

(3) Under the European Community (EC) system, quality system evaluation reports; and

(4) Under the EC system, EC type examination and verification reports.

(b) Appendix A of this subpart names the legislation, regulations, and related procedures under which:

(1) Products are regulated as medical devices by each party;

(2) CAB's are designated and confirmed; and

(3) These reports are prepared.

(c) For purposes of this subpart, equivalence means that: CAB's in the EC are capable of conducting product and quality systems evaluations against U.S. regulatory requirements in a manner equivalent to those conducted by FDA; and CAB's in the United States are capable of conducting product and quality systems evaluations against EC regulatory requirements in a manner equivalent to those conducted by EC CAB's.

§ 26.33 Product coverage.

(a) There are three components to this subpart each covering a discrete range of products:

(1) *Quality System Evaluations.* U.S.-type surveillance/postmarket and initial/preapproval inspection reports and European Community (EC)-type quality system evaluation reports will be exchanged with regard to all products regulated under both U.S. and EC law as medical devices.

(2) *Product Evaluation.* U.S.-type premarket (510(k)) product evaluation reports and EC-type-testing reports will be exchanged only with regard to those products classified under the U.S. system as Class I/Class II-Tier 2 medical devices which are listed in Appendix B of this subpart.

(3) *Postmarket Vigilance Reports.* Postmarket vigilance reports will be exchanged with regard to all products regulated under both U.S. and EC law as medical devices.