

# GASREGSINC

**Gas Regs Incorporated**

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Via FedEx and Facsimile

July 7, 2004

Dockets Management Branch (HFA-305)  
U.S. Food and Drug Administration  
Room 1061  
5630 Fishers Lane  
Rockville, MD 20852

Re: Docket No. 2004N-0133  
Electronic Record; Electronic Signatures; Public Meeting,  
Federal Register, Vol. 69, #68, pgs. 18591-18593, April 8, 2004

Dear Sir or Madam:

Gas Regs, Inc., appreciates the opportunity to comment on docket 2004N-0133, and this letter provides our remarks to the specific issues identified by the Agency in the referenced notice concerning "Electronic Record, Electronic Signatures"

Gas Regs, Inc., is a Quality Assurance/Regulatory Affairs consulting firm dedicated to assisting companies who manufacture, fill, distribute and/or use medical or food grade gases with their quality and FDA regulatory compliance activities. Gas Regs, Inc.'s, clients include national, regional, and single site home care companies; international, national and regional industrial gas firms (e.g., air liquefaction, bulk gas manufacturing, and container filling operations); regional and single site cylinder filling operations, as well as medical gas container and equipment manufacturers. Medical gas manufacturers represent a significant percentage of those firms registered as drug manufacturers with the agency.

Gas Regs, Inc. applauds the initiative taken by FDA to encourage the application of science and risk assessment to meet compliance requirements. Without question, this movement will encourage innovation through technology, which over time, should beneficially affect health care costs while assuring the high standards of product quality and safety are maintained and potentially enhanced.

Following are our comments to the specific issues / questions identified by the Agency in the referenced notice:

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**Issue IV A.1 page 18592**

Should part 11 be revised to implement the narrow interpretation of scope described in the guidance?

**Gas Regs, Inc. Comment**

Yes, the agency should propose to revise the Part 11 regulations to implement the narrow interpretation of scope describe in the current guidance. There are adequate regulations already in place to control the authenticity, integrity and, where appropriate, the confidentiality of the records that would be excluded if the scope of the regulation were narrowed consistent with that described in the current guidance. For example record authenticity and integrity is an established premise of the existing current Good Manufacturing Practice regulation (21 CFR Parts 210 and 211). By eliminating from the scope of Part 11 those documents or records that may be incidentally generated via a computer but where the generated written document (as opposed to electronic document) is utilized to perform the predicate rule's regulatory function, reduces Part 11 implementation costs without sacrificing controls on record authenticity and integrity.

**Issue IV A.2 page 18592**

Should the definitions in part 11 be revised to help clarify and help narrow the approach? If so what are your suggested revisions.

**Gas Regs, Inc. Comment**

Given our recommendation related to "non-predicate rule records" in our responses to Issues IV.B.3, IV D.1 and IV D.2 (below), it may be appropriate to include a definition for "predicate rule". We offer the following as a possible definition:

"For purposes of this part [21 CFR Part 11], a predicate rule is any requirement set forth in the Act or any FDA regulation where there is a requirement for paper records and traditional signatures, with the exception of this part"

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**Issue IV A.3 page 18592**

Is there a need for clarification in part 11 regarding which records are required by predicate rule and are therefore required to be part 11 compliant?

**Gas Regs, Inc. Comment**

No. To specifically delineate those predicate rule records that may be subject to part 11 would be redundant with an appropriately revised Part 11 Scope section. It is also Gas Regs, Inc.'s opinion that specifically clarifying which predicate rule records may be subject to part 11 would burden the agency by requiring a Part 11 review (and possible revision) whenever a new potentially applicable regulation was developed, or when a current predicate rule (related to records) is revised. Each individual company should make (and document) its own decisions as to what records are covered and the degree of controls appropriate for that application by following a risk based approach.

**Issue IV B page 18592**

How should decisions for using alternate controls be made?

**Gas Regs, Inc. Comment**

We support the application of a scientifically based risk assessment to determine the alternate controls appropriate for a given application.

**Issue IV B.1 page 18592**

Are there other areas of part 11 that should incorporate the concept of a risk based approach?

**Gas Regs, Inc. Comment**

The concept of a scientifically based risk assessment approach should have broad universal application for all areas of part 11. Although perhaps outside the scope of the comments requested, we strongly support the concept of using a scientifically based risk assessment approach to all agency regulations such as 21 CFR Parts 210 and 211.

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**Issue IV B.2 page 18592**

Is additional clarity needed regarding how predicate rule requirements related to subpart B can be fulfilled?

**Gas Regs, Inc. Comment**

Additional clarity is not needed within the regulation itself. Gas Regs, Inc. would support the agency issuing a guidance document that provides examples as they pertain to specific situations. Considering the significant number of medical gas manufacturing locations, it may be helpful for our industry segment to see examples pertaining to medical gas products.

**Issue IV B.3 page 18592**

Should the requirements for electronic records submitted to FDA be separate from electronic records maintained to satisfy predicate rule requirements?

**Gas Regs, Inc. Comment**

Yes, the requirements for electronic records submitted to the FDA should be separate from electronic records maintained to satisfy predicate rule requirements.

**Issue IV B.4 page 18592**

Should part 11 continue to differentiate between open systems and closed systems?

**Gas Regs, Inc. Comment**

Yes, The regulation states that in addition to the controls for closed systems (§11.10), open systems would need the controls stipulated in §11.30. The additional controls for open systems would be merited when based on any potential additional risks introduced, such as from unauthorized use

**Issue IV (For individual controls) B.1 page 18593**

Should we retain the validation provision under §11.10(b) required to ensure that a system meets predicate rule requirements for validation?

**Gas Regs, Inc. Comment**

This may not be necessary, since computer systems already require some level of validation based upon a risk evaluation.

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**Issue IV (For individual controls) B.2 (question 1) page 18593**

Are there any related predicate rule requirements that you believe are necessary to preserve the content and meaning of records with respect to record copying and record retention?

**Gas Regs, Inc. Comment**

No. Predicate rules typically (or should) specify record copying and retention requirements to preserve the content and meaning of records. To specify within Part 11 the same requirements would be redundant or could create conflicting requirements should they not agree with other predicate rules. Creating additional requirements, not stipulated in a predicate rule, or stipulating copying or retention methodologies would create undue burdens not warranted by risk analysis.

**Issue IV (For individual controls) B.2 (question 2) page 18593**

What requirements would preserve record security and integrity and ensure that records are suitable for inspection, review, and copying by the agency?

**Gas Regs, Inc. Comment**

The requirements stated in the guidance document, pages 7 and 8, Copies of Records and Record Retention sections, are adequate to preserve record security and integrity and ensure that records are suitable for inspection, review, and copying by the agency. Gas Regs, Inc. proposes the agency codify those requirements in Part 11.

**Issue IV (For individual controls) B.3 page 18593**

Should audit trail requirements include safeguards designed and implemented to deter, prevent, and document unauthorized record creation, modification, and deletion?

**Gas Regs, Inc. Comment**

The requirements stated in the guidance document, pages 6 and 7, Audit Trails, are adequate to provide safeguards to deter, prevent, and document unauthorized record creation, modification, and deletion. Gas Regs, Inc. proposes the agency codify those requirements in Part 11.

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**Issue IV (For individual controls) B.4 page 18593**

Should part 11 be modified to incorporate concepts, such as configuration and document management, for all of a system's software and hardware?

**Gas Regs, Inc. Comment**

No, Part 11 already covers the requirements for configuration and documentation management. The comment for "all systems" should be reworded to state, "all process operation systems". The configuration and documentation of "off the shelf" type software would not be available for the end user.

**Issue IV C page 18593**

Section 11.10(d) requires that system access be limited to authorized individuals, but it does not address the handling of security breaches where an unauthorized individual accesses the system. Should part 11 address investigations and follow-up when these security breaches occur?

**Gas Regs, Inc. Comment**

Gas Regs, Inc. believes handling security breaches is a fundamental management issue, with an expectation of performing an investigation and implementing appropriate measures to assure a breach would not reoccur. We do not believe, however, that Part 11 must specifically stipulate a CAPA requirement. If the agency, is concerned that appropriate investigation and follow-up may not occur unless this requirement is codified, Gas Regs, Inc. could support such a requirement

**Issue IV D.1 page 18593**

What are the economic ramifications of modifying part 11 based on the issues raised in this document?

**Gas Regs, Inc. Comment**

Any movement that embraces scientific analysis and risk assessment to determine requirements would be economically beneficial relative to a broad inflexible approach to regulatory application. Further, it would encourage the use of technology with a further cascade effect on manufacturing efficiency and subsequent economic benefit to consumers. Modifications to part 11 made without embracing such scientific analysis and risk assessment would have the opposite economic impact.

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**Issue IV D.2 page 18593**

Is there a need to clarify in part 11 which records are required by predicate rules where those records are not specifically identified in predicate rules?

**Gas Regs, Inc. Comment**

Part 11 is applicable only to electronic records where the predicate rule requires a paper record; therefore, further clarification is unnecessary. If the agency contends the need for such clarification, Gas Regs, Inc. believes revising the predicate rule itself to specifically require a record, is more appropriate.

**Issue IV D.3 page 18593**

In what ways can part 11 discourage innovation?

**Gas Regs, Inc. Comment**

Validation and prescriptive requirements that are not risk based have the potential to add significant cost with no value added. Cost/benefit analysis is typically the basis for the application of technology.

**Issue IV D.4 page 18593**

What potential changes to part 11 would encourage innovation and technical advances consistent with the agency's need to safeguard public health?

**Gas Regs, Inc. Comment**

Application of a risk-based approach would encourage innovation and technical advances and would ensure appropriate focus on our mutual concern of public health.

**Issue IV D.5 page 18593**

What risk-based approaches would help to ensure that electronic records have the appropriate levels of integrity and authenticity elements and that electronic signatures are legally binding and authentic?

**Gas Regs, Inc. Comment**

Any recognized, scientifically based risk assessment should address these concerns.

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**Issue IV D.6 (questions 1 and 2) page 18593**

What are stakeholder concerns in regards to modifications made to legacy systems in use as of August 1997? Can the use of risk mitigation and appropriate controls eliminate concerns regarding legacy systems?

**Gas Regs, Inc. Comment**

Modifications to any system should be made using a Management of Change (MOC) approach, which may trigger additional testing or validation requirements for legacy systems that, based on their age, may or may not be feasible. The use of risk mitigation and other appropriate controls as part of a scientifically based risk assessment should eliminate the concerns the agency may have with these systems.

**Issue IV D.7 page 18593**

Should part 11 address record conversion?

**Gas Regs, Inc. Comment**

No, predicate rules already adequately addressed record conversion.

**Issue IV D.8 page 18593**

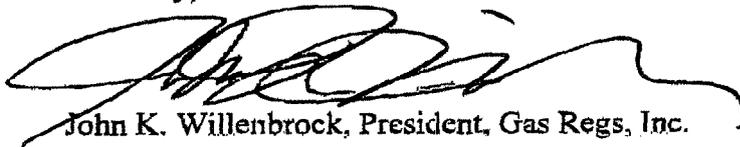
Are there provisions of part 11 that should be augmented, modified, or deleted as a result of new technologies that have become available since part 11 was issued?

**Gas Regs, Inc. Comment**

Yes. See previous comment details.

The further application of science and risk assessment to meet compliance requirements will encourage innovation through technology, which, over time, should beneficially impact health care costs while maintaining and enhancing the high standards of product quality and public safety. Gas Regs, Inc. appreciates the opportunity to comment on this docket. If there are any questions regarding these comments, please do not hesitate to contact me via e-mail at [john.willenbrock@gasregs.com](mailto:john.willenbrock@gasregs.com), or via phone at (336) 887-0510..

Sincerely,



John K. Willenbrock, President, Gas Regs, Inc.

cc: Joseph C. Famulare, CDER (HFD-320)