CDER's Program for the Recognition of Voluntary Consensus Standards Related to Pharmaceutical Quality

Guidance for Industry

DRAFT GUIDANCE

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For questions regarding this draft document, contact Colleen Thomas, 301-796-4853.

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Drug Evaluation and Research (CDER)

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Procedural

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This draft guidance, when finalized, will represent the current thinking of the Food and Drug Administration (FDA or Agency) on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff responsible for this guidance as listed on the title page.

I. INTRODUCTION

FDA's participation in the development and use of technical voluntary consensus standards[2] has been integral to the execution of FDA's mission. For example, FDA has used such standards to develop and/or evaluate performance characteristics of dosage forms, testing methodologies, manufacturing practices, product standards, scientific protocols, compliance criteria, ingredient specifications, labeling of drug products, and other technical or policy criteria.

This guidance describes a proposed program at FDA's Center for Drug Evaluation and Research (CDER) to make public a comprehensive listing of informally recognized voluntary consensus standards related to pharmaceutical quality. CDER is issuing this draft guidance to obtain public comments on the proposed program. After CDER considers submitted comments, CDER will establish this program and describe it by publishing a final guidance.

This program, once established, will facilitate submissions by external stakeholders and CDER staff proposing voluntary consensus standards related to pharmaceutical quality for informal

[1] This guidance has been prepared by the Office of Pharmaceutical Quality in the Center for Drug Evaluation and Research at the Food and Drug Administration.

[2] In this guidance, the phrase *voluntary consensus standard* refers to

> a standard that is developed or adopted by domestic and international voluntary consensus standards bodies . . . . These bodies often have . . . policies that include provisions requiring that owners of relevant patented technology incorporated into a standard make that intellectual property available to implementers of the standard on non-discriminatory and royalty-free or reasonable royalty terms.

Office of Management and Budget Circular A-119 Revised, *Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities* (revised on January 27, 2016), available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A119/revised_circular_a-119_as_of_1_22.pdf, at 16. *Voluntary consensus standards bodies* refer to any "association, organization, or technical society that plans, develops, establishes, or coordinates voluntary consensus standards using a voluntary consensus standards development process that includes [specific] attributes or elements." Id. Section V.A of this guidance describes these attributes or elements.

recognition. CDER believes that this informal program, which is different than the formal recognition standards program in FDA's Center for Devices and Radiological Health,[3] will help promote innovation in pharmaceutical development and manufacturing and streamline the compilation and assessment of marketing applications for products regulated by CDER.

Even if an applicant decides to use one of CDER's informally recognized voluntary standards, CDER may request that the applicant provide additional information to support an Investigational New Drug (IND) application or a marketing application. In addition, the applicant's use of an informally recognized consensus standard will be strictly voluntary.

In general, FDA's guidance documents do not establish legally enforceable responsibilities. Instead, guidances describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidances means that something is suggested or recommended, but not required.

II. SCOPE OF THE PROPOSED PROGRAM

This program will informally recognize voluntary consensus standards related to pharmaceutical quality for products under CDER's jurisdiction.[4] This program will not apply to statutory and regulatory standards that are legally binding, such as certain provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301-399h) relating to the United States Pharmacopeia (USP).[5] The standards to be recognized in this program do not include and are different from electronic data exchange standards. (Electronic data exchange standards for submissions to CDER can be found in the FDA Data Standards Catalog.)

III. BACKGROUND

The National Technology Transfer and Advancement Act and Office of Management and Budget (OMB) Circular A-119 direct federal government agencies to use voluntary consensus standards developed or adopted by a standards developing organization—rather than Government-unique

[3] The Center for Devices and Radiological Health operates a formal recognition program for standards under the Food and Drug Administration Modernization Act of 1997. Public Law 105-115.

[4] For example, standards related to drug distribution and supply chain security and current good clinical practices are not included in this program.

[5] Although much of the USP and NF is legally enforceable, the USP general chapters numbered <1000> to <1999> (general information chapters) are informational and generally do not contain any mandatory requirements (see USP General Notices 3.10, Applicability of Standards).

standards—except where these standards are inconsistent with applicable law or otherwise impractical.[6]

The policies of OMB Circular A-119 are intended to: (1) encourage Federal agencies to benefit from the expertise of the private sector, (2) promote Federal agency participation in voluntary consensus standards bodies to ensure the creation of standards that are usable by Federal agencies, and (3) reduce reliance on Government-unique standards when an existing voluntary standard would suffice. CDER's proposed program for informal recognition of voluntary consensus standards is consistent with the policies of OMB Circular A-119.

IV. PURPOSE OF THE PROPOSED PROGRAM

The purpose of the proposed program will allow CDER to:

- Use Agency expertise to evaluate and informally recognize voluntary consensus standards related to phamaceutical quality that are potentially useful to industry and CDER staff. Specifically, this process will allow CDER to:

  - Receive a candidate consensus standard, with relevant information (e.g., the scope of the standard and the purpose, from internal or external parties for informal recognition.

  - Determine whether to informally recognize a standard in whole or in part following an internal scientific evaluation.

  - List the informally recognized standards in a publicly searchable database on CDER's website, accompanied by an information sheet describing the scope and the extent of CDER's informal recognition of that standard and any other relevant information about it.

- Provide transparency to industry and other stakeholders regarding CDER's thinking about a particular method or approach.

- Promote the visibility and use of standards applicable to its public health mission.

V. THE PROPOSED INFORMAL RECOGNITION PROGRAM FOR VOLUNTARY CONSENSUS STANDARDS RELATED TO PHARMACEUTICAL QUALITY

A. Elements of the Standards Development Process

[6] Consistent with Section 12(d)(2) of the NTTAA, agencies should participate when consultation and participation is "in the public interest and is compatible with their missions, authorities, priorities, and budgetary resources."

For purposes of this proposed program, CDER intends to consider for informal recognition standards developed by voluntary consensus standards bodies that adhered to the following five elements (mentioned in the revised OMB Circular A-119[7]):

1. Openness

The procedures or processes for participating in standards development are transparent and open to interested parties. Such parties are provided "meaningful opportunities to participate in standards development on a non-discriminatory basis."[8]

2. Balance

A broad range of stakeholders are provided meaningful involvement in the standards-development process of the voluntary consensus standards body, with no single interest dominating the decision making.

3. Due Process

The standards development process of the voluntary consensus standards body contains a due process provision where (1) that body's standards development policies and procedures were documented and publically available and (2) all stakeholders were provided adequate notice of that body's meetings and standards development activities, "sufficient time to review drafts and prepare views and objections, access to views and objections of other participants, and a fair and impartial process for resolving conflicting views."[9]

4. Appeals Process

The standards development process of the voluntary consensus standards body contains an appeals provision, which allows that body to impartially handle any procedural appeals.

5. Consensus

During the development of consensus[10] on standards, comments and objections are considered using fair, impartial, open, and transparent processes.

[7] See footnote 2.

[8] Id.

[9] Id.

[10] The revised OMB Circular A-119 defines *consensus* as a "general agreement, but not necessarily unanimity." OMB Circular A-119 Revised, See footnote 2.

B. CDER's Policies and Procedures for Evaluating Voluntary Consensus Standards Related to Pharmaceutical Quality

CDER's Pharmaceutical Quality Standards Working Group (PQSWG) serves as a coordination and advisory group for FDA's participation in standards activities associated with pharmaceutical quality. After CDER considers any public comments it receives in response to the issuance of this draft guidance,[11] the PQSWG intends to develop an internal process for informally recognizing standards in whole or in part, and document this process in a publicly available Manual of Policies and Procedures. This documented process should reflect that for every proposed pharmaceutical quality-related standard submitted by an internal or external party for informal recognition, the PQSWG intends to adhere to the following general policies and procedures:

- The PQSWG should evaluate all requests for informal recognition of voluntary consensus standards.

- The PQSWG should confirm that each proposed voluntary consensus standard will not be in conflict with any statute, regulation, or policy under which FDA operates.

- The PQSWG should confirm that each proposed voluntary consensus standard adheres to the five elements listed in section V.A.

- If the proposed voluntary consensus standard for informal recognition meets the PQSWG's qualifying criteria:

  - The PQSWG may recommend the formation of a subgroup of subject matter experts (i.e., individuals with the necessary knowledge, experience, training, and skills related to the scope of that standard) to review the standard. When necessary, the PQSWG should work with relevant experts within organizational units impacted by the technical content of the standard.

  - The PQSWG may also recommend that an FDA laboratory evaluate the proposed standard.

  - The subject matter experts, in collaboration with the PQSWG, will prepare the information sheet describing the scope and the extent of CDER's informal recognition of that standard (in whole or in part) and any other relevant information about that standard. The PQSWG will review and approve the information sheet prior to publication.

  - CDER intends to list the voluntary consensus standard and publish the accompanying information sheet on a searchable database on CDER's public website.

[11] See section I of this draft guidance.

VI. QUESTIONS AND ANSWERS ABOUT THE PROPOSED PROGRAM

A. What Does It Mean if CDER Informally Recognizes a Voluntary Consensus Standard?

CDER's informal recognition of a voluntary consensus standard would communicate to FDA staff and external stakeholders that a voluntary consensus standard has been evaluated by relevant CDER experts for the specific scope outlined in an information sheet (which should describe the scope and the extent of CDER's informal recognition of that standard (in whole or in part) and other relevant information) and found potentially helpful to industry and CDER staff. As stated earlier in this draft guidance, even if an applicant decides to use one of CDER's informally recognized voluntary standards, CDER may request that the applicant provide additional information to support an IND application or a marketing application. An applicant's use of any such informally recognized standard is voluntary.

B. How Will CDER Assign a Review Team When a Recognition Request Is Received?

Standards that are developed in accordance with the elements described in section V.A should be evaluated by the PQSWG, which consists of staff with the necessary knowledge, experience, training, and skills related to the scope of a particular voluntary consensus standard. PQSWG will identify reviewers with relevant expertise based on the technical content of the standard.

C. How Will CDER Determine Whether to Informally Recognize a Voluntary Consensus Standard?

CDER intends to develop an internal process for informally recognizing standards in whole or in part. Please refer to section V.B for more information about this process.

D. Where Will the Informally Recognized Standards Be Posted?

CDER proposes to maintain a listing of informally recognized voluntary consensus standards related to pharmaceutical quality on a searchable database that may be accessed via CDER's public website. On that website, an information sheet should accompany every recognized standard.

E. What Information Should Accompany a Published Standard?

Every consensus standard listed on CDER's searchable database should be accompanied by an information sheet that specifies the following:

- The address(es) where the standard can be obtained.

- The scope and extent of CDER's informal recognition of that standard (in whole or in part).

- The full title, version, and date of the standard that is recognized.

- Any other information pertinent to the use of the standard.

F. How Would the Use of Informally Recognized Standards Benefit the Pharmaceutical Industry?

Use of an informally recognized standard has the potential to streamline the compilation and review of marketing applications for products that are under CDER's jurisdiction. Because CDER, through the PQSWG informal recognition process described in section V.B, would have already evaluated the validity of a particular standard, the Agency would be able to focus on the output of that standard (e.g., the attribute evaluated by the standard test method). In addition, this program will provide transparency to industry on CDER's thinking on a particular standard and promote innovation in pharmaceutical development and manufacturing. The principles of standards development described in section V.A will ensure that these benefits are available to all applicants.

G. Can Multiple Standards Be Informally Recognized for the Same Intended Purpose?

Yes. CDER can informally recognize multiple standards that meet its criteria for standards development and are determined to be useful for applicants and CDER staff.

H. If There Is an Enforceable Compendial Standard from the USP and CDER Has Informally Recognized Another Standard for the Same Purpose, What Is the Effect of CDER's Informal Recognition?

CDER's informal recognition of a voluntary consensus standard will not impact the regulatory status of the USP standard; however, in this proposed program, CDER may informally recognize alternate standards that are comparable to the USP standard or that provide advantages over the USP standard.[12] Although the use of a non-compendial procedure may be adequate for release and stability testing, the article that is the subject of a USP monograph must nevertheless comply with compendial standards when tested as directed in the relevant monograph.[13]

[12] Please note that the suitability of any *analytical* procedure used shall be verified under actual conditions of use. See 21 CFR 211.194(a)(2).

[13] See USP General Notices 3.10, Applicability of Standards.