



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2015-D-4803]

Public Notification of Emerging Postmarket Medical Device Signals ("Emerging Signals");

Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled "Public Notification of Emerging Postmarket Medical Device Signals ('Emerging Signals')." This guidance describes the Agency's policy for notifying the public about medical device "emerging signals." Historically, FDA has communicated important medical device postmarket information after having completed an analysis of available data and, in most cases, after having reached a decision about relevant recommendations for the device user community and about whether further regulatory action is warranted. However, in addition to these types of public communications, we believe there also is a need to notify the public about emerging signals that the Agency is monitoring or analyzing, even when the information has not been fully analyzed, validated, or confirmed, and for which the Agency does not yet have specific recommendations. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment of this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft

guidance by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments as follows:

#### Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <http://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <http://www.regulations.gov>.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2015-D-4803 for "Public Notification of Emerging Postmarket Medical Device Signals ('Emerging Signals')." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <http://www.regulations.gov> or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <http://www.regulations.gov>. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For

more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at:

<http://www.fda.gov/regulatoryinformation/dockets/default.htm>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

An electronic copy of the draft guidance document is available for download from the Internet. See the SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled "Public Notification of Emerging Postmarket Medical Device Signals ('Emerging Signals')" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5431, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1540, Silver Spring, MD 20993-0002, 301-796-6527.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

All medical devices have benefits and risks. Health care providers, patients, and consumers must weigh these benefits and risks when making health care decisions. FDA weighs

probable benefit to health from the use of the device against any probable risk of injury or illness from such use in determining the safety and effectiveness of a device. However, not all information regarding benefits and risks for a given device may be fully known or characterized prior to the device reaching the market. New information about the safety and/or effectiveness of the device often becomes available once the device is more widely distributed and used under real-world conditions of actual clinical practice.

FDA is issuing this draft guidance to describe the Agency's policy for notifying the public about medical device "emerging signals." For the purposes of this guidance, an emerging signal is new information about a medical device used in clinical practice: (1) That the Agency is monitoring or analyzing, (2) that has the potential to impact patient management decisions and/or alter the known benefit-risk profile of the device, (3) that has not yet been fully validated or confirmed, and (4) for which the Agency does not yet have specific recommendations.

We believe there is a need to notify the public about emerging signals that the Agency is monitoring or analyzing, even when the information has not been fully analyzed, validated, or confirmed, and for which the Agency does not yet have specific recommendations. Timely communication about emerging signals is intended to provide health care providers, patients, and consumers with access to the most current information concerning the potential benefits and risks of marketed devices, so that they can make informed treatment choices based on all available information. Therefore, because of the evolving nature of this information, FDA would be sharing it with the public at an early stage of the Agency's assessment and evaluation of the signal.

## II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Public Notification of Emerging Postmarket Medical Device Signals ('Emerging Signals')." 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.

## III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm>. Guidance documents are also available at <http://www.regulations.gov>. Persons unable to download an electronic copy of "Public Notification of Emerging Postmarket Medical Device Signals ('Emerging Signals')" may send an email request to [CDRH-Guidance@fda.hhs.gov](mailto:CDRH-Guidance@fda.hhs.gov) to receive an electronic copy of the document. Please use the document number 1500027 to identify the guidance you are requesting.

## IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collections of information in 21 CFR parts 801 and 808, regarding labelling, have been approved under OMB control number 0910-0485 and the collections of information in 21

CFR part 803, regarding medical device reporting, have been approved under OMB control numbers 0910-0291, 0910-0437, and 0910-0471.

Dated: December 28, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015-32920 Filed: 12/30/2015 8:45 am; Publication Date: 12/31/2015]