

SWGDRUG Recommendations, Version 7.0, Section IIID

Methods of Analysis/Analogues and Structural Class Determinations

Public Comments and SWGDRUG Responses

SWGDRUG solicited comments on the second draft of SWGDRUG Recommendations on Analogues and Structural Class Determinations from May 20 to July 15, 2014. Comments received from the previous release of this document for public comment had been considered and incorporated.

SWGDRUG received 3 responses (all affirmative) which included the following comments. The comments have been summarized or edited for brevity. Each comment was considered by the Analogue and Editorial subcommittees and responses are below in red.

1. Section 2.2: changing “or” to “and/or” **Response - The term “or” incorporates “and” by definition, therefore, no change was made.**
2. Sections 2.4 and 3.3 seem unnecessary. The comparison would be dependent on the particular compounds being compared, as well as the knowledge/opinion of the individual analyst and thus would be very difficult to write in a meaningful way- in other words it would just be 'fluff' guidance/policy. To write any sort of guidelines would be broad at best, and would likely be subject to change as new classes of compounds emerge, i.e. almost daily.

Response - The purpose of this requirement is not to mandate approach in an individual case, but rather at minimum to ensure that all opinions arrived at by a laboratory's analysts are documented and defended similarly. It is expected that each comparison will require different specific justifications, but each evaluation should be required by the laboratory to be documented and reviewable. Therefore, no change was made.
3. “we still feel the need to establish a clear boundary between who is responsible for determining if a substance is an analogue (the court) and rendering an opinion on structural similarity (the expert). Much of our hesitation about structural similarity testimony stems from analysts’ fear of potential consequences if one of us calls a substance an analogue and another does not. We feel that it will make the possibility of analogue prosecution less overwhelming if organizations such as SWGDRUG emphasize that the role of the forensic scientist is not to determine the analogue status of a drug, but to provide their expert opinion on structural similarity (or lack thereof).” **Response - The recommendation states that analysts should only give opinions on material that they have sufficient training and experience for. The court will then make the final determination regarding analogue status. It is acknowledged that analysts could reasonably come to different opinions regarding subjective determinations, and that is the value of documenting the reasons supporting each opinion to assist the court in forming an opinion. (see Section IIID.2.5.1 “Evaluation of similarity is a subjective matter and opinions may differ.”) Therefore, no change was made.**