4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0742]

Agency Information Collection Activities; Proposed Collection; Comment Request; Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the requirements for drug establishment registration and drug listing.

DATES: Submit either electronic or written comments on the collection of information by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit electronic comments on the collection of information to http://www.regulations.gov. Submit written comments on the collection of information to the Division of Dockets Management (HFA 305), Food and Drug Administration, 5630 Fishers

Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE-14526, Silver Spring, MD 20993-0002; PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Registration of Producers of Drugs and Listing of Drugs in Commercial Distribution--21 CFR Part 207 (OMB Control Number 0910-0045)--Extension

Requirements for drug establishment registration and drug listing are set forth in section 510 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360), section 351 of the Public Health Service Act (42 U.S.C. 262), and part 207 (21 CFR part 207). Fundamental to FDA's mission to protect the public health is the collection of this information, which is used for important activities such as postmarket surveillance for serious adverse drug reactions, inspection of drug manufacturing and processing facilities, and monitoring of drug products imported into the United States. Comprehensive, accurate, and up to date information is critical to conducting these activities with efficiency and effectiveness.

Under section 510 of the FD&C Act, FDA is authorized to establish a system for registration of producers of drugs and for listing of drugs in commercial distribution. To implement section 510 of the FD&C Act, FDA issued part 207. Under current § 207.20, manufacturers, repackers, and relabelers that engage in the manufacture, preparation, propagation, compounding, or processing of human or veterinary drugs and biological products, including bulk drug substances and bulk drug substances for prescription compounding, and drug premixes as well as finished dosage forms, whether prescription or over-the-counter, are required to register their establishment. In addition, manufacturers, repackers, and relabelers are required to submit a listing of every drug or biological product in commercial distribution. Owners or operators of establishments that distribute under their own label or trade name a drug product manufactured by a registered establishment are not required either to register or list. However, distributors may elect to submit drug listing information in lieu of the registered establishment that manufactures the drug product. Foreign drug establishments must also comply with the

establishment registration and product listing requirements if they import or offer for import their products into the United States.

Under current § 207.21, establishments, both domestic and foreign, must register with FDA within 5 days after beginning the manufacture of drugs or biologicals, or within 5 days after the submission of a drug application or biological license application. In addition, establishments must register annually. Changes in individual ownership, corporate or partnership structure, location, or drug handling activity must be submitted as amendments to registration under current § 207.26 within 5 days of such changes. Under § 207.20(b), private label distributors may request their own labeler code and elect to submit drug listing information to FDA. In such instances, at the time of submitting or updating drug listing information, private label distributors must certify to the registered establishment that manufactured, prepared, propagated, compounded, or processed (which includes, among other things, repackaging and relabeling) the listed drug that the drug listing submission was made. Establishments must, within 5 days of beginning the manufacture of drugs or biologicals, submit to FDA a listing for every drug or biological product in commercial distribution at that time. Private label distributors may elect to submit to FDA a listing of every drug product they place in commercial distribution. Registered establishments must submit to FDA drug product listing for those private label distributors who do not elect to submit listing information.

Under § 207.25, product listing information submitted to FDA by domestic and foreign manufacturers must, depending on the type of product being listed, include any new drug application number or biological establishment license number, copies of current labeling and a sampling of advertisements, a quantitative listing of the active ingredient for each drug or

biological product not subject to an approved application or license, the NDC number, and any drug imprinting information.

In addition to the product listing information required, FDA may also require, under § 207.31, a copy of all advertisements and a quantitative listing of all ingredients for each listed drug or biological product not subject to an approved application or license; the basis for a determination, by the establishment, that a listed drug or biological product is not subject to marketing or licensing approval requirements; and a list of certain drugs or biological products containing a particular ingredient. FDA may also request, but not require, the submission of a qualitative listing of the inactive ingredients for all listed drugs or biological products, and a quantitative listing of the active ingredients for all listed drugs or biological products subject to an approved application or license.

Under § 207.30, establishments must update their product listing information every June and December or, at the discretion of the establishment, when any change occurs. These updates must include the following information: (1) A listing of all drug or biological products introduced for commercial distribution that have not been included in any previously submitted list; (2) all drug or biological products formerly listed for which commercial distribution has been discontinued; (3) all drug or biological products for which a notice of discontinuance was submitted and for which commercial distribution has been resumed; and (4) any material change in any information previously submitted. No update is required if no changes have occurred since the previously submitted list.

Historically, drug establishment registration and drug listing information have been submitted in paper form using Form FDA 2656 (Registration of Drug Establishment/Labeler

Code Assignment), Form FDA 2657 (Drug Product Listing), and Form FDA 2658 (Registered Establishments' Report of Private Label Distributors) (collectively referred to as FDA Forms). Changes in the FD&C Act resulting from enactment of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110-85) (FDAAA) require that drug establishment registration and drug listing information be submitted electronically unless a waiver is granted. Before the enactment of FDAAA, section 510(p) of the FD&C Act expressly provided for electronic submission of drug establishment registration information upon a finding that electronic receipt was feasible, and section 510(j) of the FD&C Act provided that drug listing information be submitted in the form and manner prescribed by FDA. Section 224 of FDAAA, which amends section 510(p) of the FD&C Act, now expressly, requires electronic drug listing in addition to drug establishment registration. In certain cases, if it is unreasonable to expect a person to submit registration and listing information electronically, FDA may grant a waiver from the electronic format requirement.

In the Federal Register of June 1, 2009 (74 FR 26248), FDA announced the availability of a guidance for industry entitled "Providing Regulatory Submissions in Electronic Format--Drug Establishment Registration and Drug Listing" (the 2009 guidance). The document provides guidance to industry on the statutory requirement to submit electronically drug establishment registration and drug listing information. The guidance describes the types of information to include for purposes of drug establishment registration and drug listing and how to prepare and submit the information in an electronic format (Structured Product Labeling (SPL) files) that FDA can process, review, and archive. In addition to the information that previously was collected on the FDA Forms, the guidance addresses electronic submission of other required information as follows:

- For registered foreign drug establishments, the name, address, and telephone number of its U.S. agent (§ 207.40(c));
- the name of each importer that is known to the establishment (the U.S. company or individual in the United States that is an owner, consignee, or recipient of the foreign establishment's drug that is imported into the United States. An importer does not include the consumer or patient who ultimately purchases, receives, or is administered the drug, unless the foreign establishment ships the drug directly to the consumer or the patient) (section 510(i)(1)(A) of the FD&C Act); and
- the name of each person who imports or offers for import (the name of each agent, broker, or other entity, other than a carrier, that the foreign drug establishment uses to facilitate the import of their drug into the United States) (section 510(i)(1)(A) of the FD&C Act).

FDA also recommends the voluntary submission of the following additional information, when applicable:

- To facilitate correspondence between foreign establishments and FDA, the email address for the U.S. agent, and the telephone number(s) and email address for the importer and person who imports or offers for import their drug;
- a site-specific Data Universal Numbering System number for each entity (e.g., the registrant, establishments, U.S. agent, importer);
- the NDC product code for the source drug that is repacked or relabeled;
- distinctive characteristics of certain listed drugs, i.e., the flavor, the color, and image of the actual solid dosage form; and

- registrants may indicate that they view as confidential the registrant's business relationship with an establishment, or an inactive ingredient.

In addition to this collection of information, there is an additional burden for the following activities:

- preparing a standard operating procedure (SOP) for the electronic submission of drug establishment registration and drug listing information;
- creating the SPL file, including accessing and reviewing the technical specifications and instructional documents provided by FDA (accessible at http://www.fda.gov/oc/datacouncil/spl.html);
- reviewing and selecting appropriate terms and codes used to create the SPL file (accessible at http://www.fda.gov/oc/datacouncil/spl.html);
- obtaining the digital certificate used with FDA's electronic submission gateway and uploading the SPL file for submission (accessible at http://www.fda.gov/esg/default.htm); and
- requests for waivers from the electronic submission process as described in the draft guidance.

When FDA published the 2009 guidance on submitting establishment registration and drug listing information in electronic format, the Agency also amended its burden estimates for OMB control number 0910-0045 to include the additional burden for the collection of information that had not been submitted using the FDA forms, and to create and upload the SPL file. The amended burden estimates included the one-time preparation of an SOP for creating and uploading the SPL file. Although most firms will already have prepared an SOP for the electronic submission of drug establishment registration and drug listing information, each year

additional firms will need to create an SOP. As provided in Table 2 of this document, FDA estimates that approximately 1,000 firms will have to expend a one-time burden to prepare, review, and approve an SOP, and the Agency estimates that it will take 40 hours per recordkeeper to create 1,000 new SOPs for a total of 40,000 hours.

In Tables 1 and 2, the information collection requirements of the drug establishment registration and drug listing requirements have been grouped according to the information collection areas of the requirements.

Table 1.--Estimated Annual Reporting Burden[1]

Activity	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
New registrations, including new labeler codes requests	1,400	2	2,800	4.5	12,600
Annual updates of registration information	10,000	1	10,000	4.5	45,000
New drug listings	1,567	7	11,000	4.5	49,500
New listings for private label distributor	146	10.06	1,469	4.5	6,611
June and December updates of all drug listing information	5,300	20	106,000	4.5	477,000
Waiver requests	1	1	1	1	1
Total					590,712

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2.--Estimated Annual Recordkeeping Burden[1]

Activity Resulting From Section 510(p) of the FD&C Act as Amended by FDAAA	No. of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
One-time preparation of SOP	1,000	1	1,000	40	40,000
SOP maintenance	3,295	1	3,295	1	3,295
Total					43,295

[1] There are no capital costs or operating and maintenance costs associated with the collection of information.

Dated: March 17, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015-06497 Filed: 3/20/2015 08:45 am; Publication Date: 3/23/2015]