



4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-N-0477]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Investigational Device Exemptions Reports and Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0078. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Investigational Device Exemptions Reports and Records

OMB Control Number 0910-0078--Extension

Section 520(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360j(g)) establishes the statutory authority to collect information regarding investigational devices and establishes rules under which new medical devices may be tested using human subjects in a clinical setting. The Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) added section 520(g)(6) to the FD&C Act and permitted changes to be made to either the investigational device or to the clinical protocol without FDA approval of an investigational device exemption (IDE) supplement. An IDE allows a device, which would otherwise be subject to provisions of the FD&C Act, such as premarket notification or premarket approval, to be used in investigations involving human subjects in which the safety and effectiveness of the device is being studied. The purpose of part 812 (21 CFR part 812) is to encourage, to the extent consistent with the protection of public health and safety and with ethical standards, the discovery and development of useful devices intended for human use. The IDE regulation is designed to encourage the development of useful medical devices and allow investigators the maximum freedom possible, without jeopardizing the health and safety of the public or violating ethical standards. To do this, the regulation provides for different levels of regulatory control, depending on the level of potential risk the investigational device presents to human subjects.

Investigations of significant risk devices, ones that present a potential for serious harm to the rights, safety, or welfare of human subjects, are subject to the full requirements of the IDE

regulation. Nonsignificant risk device investigations, i.e., devices that do not present a potential for serious harm, are subject to the reduced burden of the abbreviated requirements. The regulation also includes provisions for treatment IDEs. The purpose of these provisions is to facilitate the availability, as early in the device development process as possible, of promising new devices to patients with life-threatening or serious conditions for which no comparable or satisfactory alternative therapy is available. Section 812.10 permits the sponsor of the IDE to request a waiver of any of the requirements of part 812. Sections 812.20, 812.25, and 812.27 describe the information necessary to file an IDE application with FDA. The submission of an IDE application to FDA is required only for significant risk device investigations. Section 812.20 lists the data requirements for the original IDE application, § 812.25 lists the contents of the investigational plan, and § 812.27 lists the data relating to previous investigations or testing. The information in the original IDE application is evaluated by the Center for Devices and Radiological Health to determine whether the proposed investigation will reasonably protect the public health and safety.

Upon approval of an IDE application by FDA, a sponsor must submit certain requests and reports. Under § 812.35, a sponsor who wishes to make a change in the investigation that affects the scientific soundness of the study or the rights, safety, or welfare of the subjects, is required to submit a request for the change to FDA. Section 812.150 requires a sponsor to submit reports to FDA. These requests and reports are submitted to FDA as supplemental applications. This information is needed for FDA to assure protection of human subjects and to allow review of the study's progress. Section 812.36(c) identifies the information necessary to file a treatment IDE application. FDA uses this information to determine if wider distribution of the device is in the interest of the public health. Section 812.36(f) identifies the reports required

to allow FDA to monitor the size and scope of the treatment IDE, to assess the sponsor's due diligence in obtaining marketing clearance of the device, and to ensure the integrity of the controlled clinical trials.

Section 812.140 lists the recordkeeping requirements for investigators and sponsors. FDA requires this information for tracking and oversight purposes. Investigators are required to maintain records, including correspondence and reports concerning the study, records of receipt, use or disposition of devices, records of each subject's case history and exposure to the device, informed consent documentation, study protocol, and documentation of any deviation from the protocol. Sponsors are required to maintain records including correspondence and reports concerning the study, records of shipment and disposition, signed investigator agreements, adverse device effects information, and, for a nonsignificant risk device study, an explanation of the nonsignificant risk determination, records of device name and intended use, study objectives, investigator information, investigational review board information, and statement on the extent that good manufacturing practices will be followed.

For a nonsignificant risk device investigation, the investigators' and sponsors' recordkeeping and reporting burden is reduced. Pertinent records on the study must be maintained by both parties, and reports are made to sponsors and institutional review boards (IRBs). Reports are made to FDA only in certain circumstances, e.g., recall of the device, the occurrence of unanticipated adverse effects, and as a consequence of certain IRB actions.

In the *Federal Register* of June 11, 2019 (84 FR 27139), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

Table 1.--Estimated Annual Reporting Burden¹

Activity/21 CFR Section	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
Waivers--812.10	1	1	1	1	1
IDE Application--812.20, 812.25, and 812.27	229	1	229	80	18,320
Supplements--812.35 and 812.150	654	5	3,270	6	19,620
Treatment IDE Applications--812.36(c)	1	1	1	120	120
Treatment IDE Reporting--812.36(f)	1	1	1	20	20
Total					38,081

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

Table 2.--Estimated Annual Recordkeeping Burden¹

Activity/21 CFR Section	No. of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
Original--812.140	229	1	229	10	2,290
Supplemental--812.140	654	5	3,270	1	3,270
Nonsignificant--812.140	356	1	356	6	2,136
Total					7,696

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

Table 3.--Estimated Annual Third-Party Disclosure Burden¹

Activity/21 CFR Section	No. of Respondents	No. of Disclosures per Respondent	Total Annual Disclosures	Average Burden per Disclosure	Total Hours
Reports for Nonsignificant Risk Studies--812.150	1	1	1	6	6

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

Our estimated burden for the information collection reflects an overall decrease of 528 hours. We attribute this adjustment to a decrease in the number of submissions we received over the last few years.

Dated: September 26, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

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