Supporting Statement for
Guidance on Reagents for Detection of Specific Novel Influenza A Viruses
OMB # 0910-0584

A. JUSTIFICATION

1. Circumstances Necessitating Information Collection

OMB clearance is being sought for an information collection that is being established as a special control for the new class II device type, Novel Influenza A Reagents. This classification results from the review of a “de novo” request (explained below) for a diagnostic test intended to diagnose influenza subtype H5 (Asian lineage), commonly known as avian flu, the strain of influenza that has killed patients in Asia, Turkey, and Iraq and raises concerns of a pandemic. This classification permits the legal distribution of this device, which is of critical public health importance, and the information collection addressed here plays a significant role in providing a reasonable assurance of the safety and effectiveness of this device and of similar future devices. Specifically, the information collection asks sponsors to obtain and analyze data postmarket to ensure the continued reliability of the device, given the propensity of influenza viruses to mutate and the potential for changes in disease prevalence. This involves collecting data on the clinical performance of the device under new prevalence conditions if there is a change in prevalence of influenza caused by the specific novel virus that the device is intended to detect, as compared to the prevalence of this virus when the clinical studies described in the 510(k) were conducted.

Specifically, under 21 USC 360c(f)(2)(A) (Attachment A), any person who submits a premarket notification under section 360(k) of the Federal Food, Drug, and Cosmetic Act for a type of device that has not been previously classified, and that is classified into class III under 21 USC 360c(f)(1) (Attachment A), may request that FDA classify the device in accordance with the criteria in 21 USC 360c(a)(1) (Attachment B), which describes the three device classifications. This provision is known as "de novo" classification. Under 21 USC 360c(f)(2)(B) (Attachment A), FDA must issue an order classifying the device no more than 60 days after receiving such a request, and under 21 USC 360c(f)(2)(C) (Attachment A), FDA must publish a notice in the Federal Register announcing the classification within 30 days of issuing the order.

In accordance with this provision, FDA evaluated an application for an in vitro diagnostic device for detection of influenza subtype H5 (Asian lineage), commonly known as avian flu. This review was expedited because of the significant public health importance of making this diagnostic test available to help with diagnosis and public health surveillance for this possible pandemic strain of influenza. FDA concluded that this device is properly classified into class II in accordance with 21 USC 360c(a)(1)(B) (Attachment B), because it is a device for which the general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, but there is sufficient information to establish special controls to provide such assurance. The statute permits FDA to establish as special controls many different things, including postmarket surveillance, development and dissemination of guidance, recommendations, and "other appropriate actions as the Secretary deems necessary." 21 USC 360c(a)(1)(B) (Attachment B). The information

collection described above is a measure that FDA determined to be necessary to provide reasonable assurance of safety and effectiveness of Novel Influenza A Reagents.

FDA issued an order classifying the H5 (Asian lineage) diagnostic device into class II on February 3, 2006, establishing the special controls necessary to provide reasonable assurance of the safety and effectiveness of that device and similar future devices. In accordance with Section 360c(f)(2)(C) (Attachment A), FDA must publish a notice of this classification in the Federal Register within 30 days. The new classification will be codified in 21 CFR 866.3332, a regulation that will describe the new classification for Novel Influenza A Reagents and set forth the special controls that help to provide a reasonable assurance of the safety and effectiveness of devices classified under that regulation. The regulation will refer to the special control guidance document, Class II Special Controls Guidance Document: Reagents for Detection of Specific Novel Influenza A Virus, which provides recommendations for measures to help provide a reasonable assurance of safety and effectiveness for Novel Influenza A Reagents, including the studies described above, which require this emergency PRA approval.

2. How, by Whom, Purpose of Collection

After receiving OMB clearance under the Paperwork Reduction Act (PRA), FDA announced (3/23/06) the availability of a guidance entitled, "Special Controls Guidance Document: Reagents for Detection of Specific Novel Influenza A Viruses." The guidance describes a means by which Reagents for Detection of Specific Novel Influenza A Viruses may comply with the requirement of special controls for class II devices.

The guidance document recommends that sponsors obtain and analyze data postmarket to ensure the continued reliability of their device in detecting the specific novel influenza A virus that it is intended to detect, particularly given the propensity for influenza viruses to mutate and the potential for changes in disease prevalence over time. As updated sequences for novel influenza A viruses become available (from WHO, NIH, and other public health entities), sponsors of reagents for detection of specific novel influenza A viruses will collect this information, will compare them with the primer/probe sequences in their devices (laboratory testing as needed) and incorporate the result of these analyses into their Quality Management System, as required by 21 CFR 820.100(a)(1) (Attachment C), Corrective and Preventive Action. Further, these analyses will be evaluated against the device design validation and risk analysis required by 21 CFR 820.30(g) (Attachment D), Design Validation, to determine if any design changes may be necessary.

If there is a change in the prevalence of influenza caused by the specific novel influenza A virus that the sponsor's device is intended to detect, compared to the prevalence existing when the premarket clinical studies were conducted, the sponsor will collect data on the clinical performance of their device under the new prevalence conditions. Changes in prevalence may be obtained from national surveillance reports. The prevalence of infection with the specific novel influenza virus their device is intended to detect may change significantly with time, possibly affecting their device performance. The labeling of their device may need to be revised to reflect the new clinical performance data.

3. Consideration Given to Information Technology

Companies are free to use whatever forms of information technology may best assist them in utilizing this guidance document.

4. Identification of Duplicative Information

As this is a guidance document, the firm need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurance of safety and effectiveness. There should be no duplicative information collection as a result of this guidance.

5. Small Businesses

This guidance document offers clinical investigators and sponsors the possibility of using updated influenza viral sequences available through public health and research organizations such as WHO and NIH and incorporating this information into a process already in place, i.e., the Quality Management System. In vitro diagnostic manufacturers are expected to have a mechanism in place to monitor the performance of their devices to ensure that the device continues to meet its performance specifications over time. This guidance's recommendation for collecting postmarket data under new influenza prevalence conditions is a preventive action taken because of anticipated device failure under new conditions of use.

FDA aids small business and manufacturers to comply with applicable statutes and regulations by providing guidance and information through the Division of Small Manufacturers, International, and Consumers Assistance (DSMICA). DISMICA provides workshops, on-site evaluations and other technical and nonfinancial assistance to small manufacturers. The Division also maintains a toll-free 800 telephone number and a website which firms may use to obtain regulatory compliance information.

6. Less Frequent Collection

This guidance does not set a defined schedule for information collection. FDA expects that this information will have to be collected semi-annually, i.e., immediately before and immediately after the northern hemisphere influenza season.

7. Special Circumstances

There are no special circumstances associated with this information collection.

8. Federal Register Notice/Outside Consultation

9. FDA considered concerns expressed by the Centers for Disease Control and Prevention before the issuance of this guidance.

Notice was published in the **Federal Register** on May 22, 2006 (71 FR 29342) soliciting comments on this information collection prior to its submission to the Office of Management and Budget (OMB) as required by 5 CFR 1320.8(d) . In response, FDA received one comment. The comment pointed out that the estimated hours per response should be closer to 15, rather than FDA`s estimate of of 10 hours, in order to comply with the quality system regulation / document control for the new information collection. FDA agrees with this comment and as a result, the annual reporting burden has been recalculated accordingly, i.e. the total annual reporting burden is now 300 hours instead of 200.

9. Payment or Gift to Respondent

This information collection does not provide for payment or gifts to respondents.

10. Confidentiality Provisions

This information collection will be conducted by sponsors following FDA regulations for human subject protection.

11. Sensitive Questions

This information collection does not include any questions of a sensitive nature.

12. Burden of Information Collection

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

No. of Record-keepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours	Operating and Maintenance Costs
10	2	20	15	300	$3,500

The requirements of this guidance impose a minimal burden on industry. The FDA estimates that 10 respondents will be affected annually. Each respondent will collect this information twice per year, estimated to take 15 hours to complete collection. This results in a total data collection burden of 300 hours. (15 x 20 = 200)

FDA estimates that cost of developing standard operating procedures for each data collection is $350 (10 hours of work at $35/Hr.). This results in a total cost to industry of $3,500 ($350 multiplied by 10 respondents). The total cost of this data collection.

13. Capital Costs (Maintenance of Capital Costs)

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

14. Cost to Federal Government

There are no annualized costs to the Federal Government as a result of this guidance.

15. Reason for Change

No change.

16. Publication and Tabulation Dates

The agency has no plans for publication of information from this information collection.

Display of OMB Approval Date

There are no reasons why display of the expiration date for OMB approval of the information collection would be inappropriate.

18. Exceptions to "Certification for Paperwork Reduction Act Submissions"

There are no exceptions to the certification statement identified in item 19 of OMB Form 83-I.

List of Attachments:

1. Attachment A: 21 USC 360c(f)
2. Attachment B: 21 USC 360c(a)
3. Attachment C: 21 CFR 820.100
4. Attachment D: 21 CFR 820.30