PRESCRIPTION DRUG PRODUCT LABELING
MEDICATION GUIDE REQUIREMENTS
OMB Control No. 0910-0393
Supporting Statement

## A. JUSTIFICATION

### 1. Circumstances Making the Collection of Information Necessary

Food and Drug Administration (FDA) regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication information. These Medication Guides inform patients about the most important information they should know about these products in order to use them safely and effectively. Included is information such as the drug's approved uses, contraindications, adverse drug reactions, and cautions for specific populations, with a focus on why the particular product requires a Medication Guide. These regulations are intended to improve the public health by providing information necessary for patients to use certain medication safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA. The estimates for the burden hours imposed by the following regulations are listed in the table 1 of this document:

21 CFR 208.20 – Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.

21 CFR 314.70(b) (3) (ii) and 21 CFR 601.12(f) -- Application holders must submit changes to Medication Guides to FDA for prior approval as supplements to their applications.

21 CFR 208.24(c) – Each distributor or packer that receives Medication Guides, or the means to produce Medication Guides, from a manufacturer under paragraph (b) of this section shall provide those Medication Guides to each authorized dispenser to whom it ships a container of drug product.

21 CFR 208.24(e) -- Each authorized dispenser of a prescription drug product for which a Medication Guide is required, when dispensing the product to a patient or to a patient's agent, must provide a Medication Guide directly to each patient unless an exemption applies under 21 CFR 208.26.

21 CFR 208.26 (a) -- Requests may be submitted for exemption or deferral from particular Medication Guide content or format requirements.

2. Purpose and Use of the Information Collection

This information collection enables the agency to determine whether the labeling for certain prescription drug products that FDA has designated as posing a serious and significant public health concern requiring distribution of FDA-approved patient medication information include Medication Guides that are acceptable to FDA.

3. Use of Improved Information Technology and Burden Reduction

In the Federal Register of December 11, 2003 (68 FR 69009), FDA published a final rule amending its regulations governing the format in which certain labeling is required to be submitted for review with NDAs, certain biological license applications, ANDAs, supplements, and annual reports. The final rule requires that certain labeling content be submitted electronically in a form that FDA can process, review, and archive. FDA has also issued guidance documents to explain the process for submitting information to the agency in electronic format. These guidance documents are available at FDA's web site http://www.fda.gov/cder/guidance/index.htm.

4. Efforts to Identify Duplication and Use of Similar Information

The reporting required as a result of this information collection is not currently required by FDA and would not duplicate any other information collection.

5. Impact on Small Businesses or Other Small Entities

The reporting would apply equally to all applicants and dispensers whether large or small. However, because the number of products requiring Medication Guides overall will be relatively small, the smaller applicants would arguably sponsor many fewer drug products requiring Medication Guides and would, therefore, have fewer reporting responsibilities.

6. Consequences of Collecting the Information Less Frequently

The frequency of this reporting requirement would be determined by the applicant's number of marketed prescription drug products that need a Medication Guide.

7. Special Circumstances Relating to the Guidelines in 5 CFR 1320.5

There is no inconsistency.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

In the Federal Register of December 21, 2011 (76 FR 79194), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received the following comments:

Comment 1: One comment states that FDA's hourly burden estimate of 3 minutes per Medication Guide for pharmacists to comply with the requirements is miscalculated, although more in line with current practices versus previous FDA estimates.

Response: Because the comment did not indicate if the miscalculation was over- or under-estimated or provide alternative burden estimates for pharmacy time associated

with distribution of a Medication Guide, we continue to use 3 minutes as the estimated burden for pharmacists to distribute Medication Guides to patients.

Comment 2: One comment said that there are distributor costs to comply with the Medication Guide requirements and FDA's estimate omits § 208.24(c), which provides that "Each distributor or packer that receives Medication Guides, or the means to produce Medication Guides, from a manufacturer under paragraph (b) of this section shall provide those Medication Guides, or the means to produce Medication Guides, to each authorized dispenser to whom it ships a container of drug product." The comment states that December 21, 2011 notice of proposed information collection (76 FR79194) does not include an estimate for the reporting requirements of § 208.24(c) and that the requirement should be included in FDA's assessment.

Response: FDA agrees with the comment and has included § 208.24(c) as a third-party reporting requirement in Table 2 below.

Comment 3: One comment says that the FDA should reassess the need to provide Medication Guides with each prescription refill and states there are situations where it is not necessary due to certain circumstances. The comment states that Medication Guides should be a tool to enhance the level of care to consumers, rather than a hindrance to pharmacists in their ability to provide quality patient care.

Response: The FDA agrees and directs the comment to the guidance made available to the public titled "Medication Guides – Distribution Requirements and Inclusion in Risk Evaluation and Mitigation Strategies (REMS)." In this guidance, the FDA articulates the circumstances under which FDA intends to exercise enforcement discretion regarding the requirement to provide Medication Guides in certain settings.

Comment 4: One comment states that Medication Guides increasingly become accessible online for download and print and the costs for printing, including paper, toner, administrative, and software costs, have shifted from the manufacturers to the pharmacies.

Response: While Medication Guides are increasingly available online for download and printing, the FDA does not agree that a financial and acquisition burden has shifted to or been created for dispensers. The comment mischaracterizes the cost to dispensers associated with the distribution of Medication Guides. For purposes of information collection requests under the Paperwork Reduction Act, capital costs are costs for equipment, machinery, and construction that, if not for FDA's request or requirement, the respondent would not incur. Capital costs do not include costs to achieve regulatory compliance. The costs presented by the comment are not capital costs because they are costs associated with achieving regulatory compliance with requirements of the FD&C Act, not costs associated specifically with equipment, machinery, and construction needed to retain appropriate substantiating evidence.

Comment 5: One comment states that the length of Medication Guides continues to be burdensome and hinders a pharmacist from utilizing a potentially effective tool. The comment stresses the need for a succinct, one-page document that can be easily integrated into current pharmacy practice workflow.

Response: FDA generally agrees with the comment and is currently in the process of evaluating whether a one-page solution can be implemented.

9. Explanation of Any Payment or Gift to Respondents

There is no payment to respondents

10. Assurance of Confidentiality Provided to Respondents

This reporting burden has no confidentiality implications.

11. Justification for Sensitive Questions

This reporting burden does not involve any sensitive question.

12. Estimates of Annualized Hour Burden and Costs

**Table 1**--Estimated Annual Reporting Burden

| **21 CFR Section** | No. of Respondents | No. of Responses per Respondent | Total Annual Responses | Average Burden per Response | **Total Hours** |
|---|---|---|---|---|---|
| Content and Format of a Medication Guide - 208.20 | 25 | 1 | 25 | 320 | 8,000 |
| Supplements and Other Changes to an Approved Application - 314.70 (b)(3)(ii), 601.12(f) | 5 | 1 | 5 | 72 | 360 |
| Exemptions and Deferrals - 208.26(a) | 1 | 1 | 1 | 4 | 4 |
| **Total** | | | | | 8,364 |

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

**Table 2—Estimated Annual Third-Party Disclosure Burden**

| **21 CFR Section** | No. of Respondents | No. of Disclosures per Respondent | Total Annual Disclosures | Average Burden per Disclosure | Total Hours |
|---|---|---|---|---|---|
| 208.24(c) | 191 | 9,000 | 1,719,000 | 1.25 | 2,148,750 |
| Distributing and Dispensing a Medication Guide – 208.24(e) | 59,000 | 5,000 | 295 million | 3 minutes | 14,750,000 |
| Total | | | | | 16,898,750 |

Costs

FDA estimates that, on average, approximately 25 Medication Guides would be submitted annually. If each Medication Guide requires approximately 320 hours to prepare and submit to FDA, the industry cost, based on an approximate rate of $80 per hour, would be approximately $640,000. FDA also estimates that the cost of developing each Medication Guide to supplement existing applications would be approximately $5000, and the cost for each generic drug Medication Guide would be approximately $500.

FDA estimates that the sponsor of one of the new or supplementary applications will request an exemption under § 208.26(a) from at least some of the Medication Guide format or content requirements. FDA estimates that this will entail approximately 4 hours of work, or approximately $320.

In addition, FDA estimates that the existing Medication Guides annually might require minor change under § 314.70 (b)(3)(ii) or § 601.12 (f), necessitating 360 hours of full-time effort.

13. Estimates of Other Total Annual Cost Burden to Respondents and Recordkeepers

There are no other costs, including capital costs or operating and maintenance costs, associated with this requirement.

14. Annualized Cost to the Federal Government

FDA and industry sponsors currently work to ensure the development and distribution of patient labeling on a product-by-product basis, and FDA reviews all labeling submitted under an NDA. This requirement provides greater clarity about what products will require Medication Guides and what the format and content requirements will be. Thus, there should be no additional costs to the Federal Government, and no additional FTE's will be needed, other than that approved by OMB under 0910-0001.

15. Explanation for Program Changes or Adjustments

The burden to respondents under § 208.24(c) and 208.24(e) has been changed from reporting to third-party disclosure. There is no other change to this information collection.

16. Plans for Tabulation and Publication and Project Time Schedule

FDA does not intend to publish tabulated results of the information collection requirements that would be imposed by these requirements.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

There are no forms associated with this collection of information.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement "Certification for Paperwork Reduction Act Submission."