Guidance for Industry on Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application

0910-0636

SUPPORTING STATEMENT

Terms of Clearance: None.

A. Justification

1. Circumstances Making the Collection of Information Necessary

This information collection approval request is for a Food and Drug Administration (FDA) guidance for industry entitled "Postmarketing Adverse Event Reporting for Nonprescription Human Drug Products Marketed Without an Approved Application."

Public Law 109–462, the Dietary Supplement and Nonprescription Drug Consumer Protection Act states: "Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance on the minimum data elements that should be included in a serious adverse event report as described under the amendments made by this Act" (section 2(e)(3)). Public Law 109–462 amends the Federal Food, Drug, and Cosmetic Act (the act) to add safety reporting requirements for nonprescription drug products that are marketed without an approved application. In accordance with section 760(b) of the act (21 U.S.C. 379aa), the manufacturer, packer, or distributor whose name appears on the label of a nonprescription drug marketed in the United States without an approved application (referred to as the responsible person) must submit to FDA any report of a serious adverse event associated with such drug when used in the United States, accompanied by a copy of the label on or within the retail package of such drug. In addition, the responsible person must submit follow-up reports of new medical information related to a submitted serious adverse event report that is

received within 1 year of the initial report (section 760(c)(2) of the act). Finally, in accordance with section 760(e) of the act, the responsible person must maintain records related to each report of an adverse event received by the responsible person for a period of 6 years.

In accordance with the statutory mandate, the guidance document provides information on: (1) The minimum data elements that should be included in a serious adverse event report; (2) the label that should be included with the report; (3) reporting formats for paper and electronic submissions; and (4) how and where to submit the reports.

2. Purpose and Use of the Information Collection

The guidance document discusses what should be included in a serious adverse drug event report submitted under section 760(b)(1) (21 U.S.C. 379aa(b)(1)) of the FD&C Act, including follow-up reports under 760(c)(2) (21 U.S.C. 379aa(c)(2)) of the FD&C Act, and how to submit these reports.

3. Use of Improved Information Technology and Burden Reduction

In the Federal Register of June 10, 2014 (79 FR 33072), FDA amended its postmarketing safety reporting regulations for human drug and biological products to require that persons subject to mandatory reporting requirements submit safety reports in an electronic format that FDA can process, review, and archive. The action was intended to improve FDA's systems for collecting and analyzing postmarketing safety reports, and will help to more rapidly review postmarketing safety reports, identify emerging safety problems, and disseminate safety information in support of FDA's public health mission.

4. Efforts to Identify Duplication and Use of Similar Information

The information collection requested under the guidance does not duplicate any other information collection.

5. Impact on Small Businesses or Other Small Entities

Although new drug development is typically an activity completed by large multinational drug firms, the information collection requested under the guidance applies to small as well as large companies. Under the Regulatory Flexibility Act, FDA regularly analyzes regulatory options that would minimize any significant impact on small entities. FDA also assists small businesses in complying with statutory and regulatory requirements. The availability of Form FDA 3500A in a fillable pdf format, at www.fda.gov/medwatch/getforms.htm, facilitates the mandatory reporting efforts to FDA from small businesses.

6. Consequences of Collecting the Information Less Frequently

Reports of death, serious injury, or illness are collected only at the frequency that they occur. Less frequent data collection would delay identification of products responsible for adverse events, including fatalities and permanent injuries. Appropriate FDA action, such as changes in labeling or withdrawal from the market, would be delayed by less frequent reporting.

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

There is no inconsistency with 5 CFR 1320.5. The specific reporting and recordkeeping timeframes are justified by the statutory requirements.

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

In accordance with 5 CFR 1320.8(d), FDA published a 60 day notice for public comment in the FEDERAL REGISTER of January 23, 2015 (80 FR 3608). FDA received one comment. The comment requested that we increase the reporting burden estimates from 2 hours to 6 hours and the recordkeeping burden estimates from 5 hours to 8 hours. The comment said although there may be circumstances where FDA's estimates for reporting and recordkeeping may be accurate, the comment contended that, in its experience, the approximations are underestimated. The comment said that as many as 6 hours may be required to complete a single serious adverse event report, especially when the sponsor's medical and quality review teams are involved, and that as many as 8 hours may be required to maintain all relevant records for a single adverse event report as stipulated by statute.

FDA Response: We have reconsidered our estimates, and agree with the comment that there may be circumstances where 6 hours would be needed to prepare and submit a report to us and 8 hours may be needed for recordkeeping. We have revised our reporting and recordkeeping burden estimates accordingly.

9. Explanation of Any Payment or Gift to Respondents

FDA has not provided and has no intention to provide any payment or gift to respondents under this guidance.

10. Assurance of Confidentiality Provided to Respondents

Section 760(f) of the act provides that a serious adverse report submitted to FDA, including new medical information, under section 760 of the act, or an adverse event report voluntarily submitted to FDA, is considered to be a record about an individual under section 552a of title V of the U.S.C. (commonly referred to as the "Privacy Act of 1974") and a medical or similar file, the disclosure of which would constitute a violation of section 552 of title V (commonly referred to as the "Freedom of Information Act"), not to be disclosed unless all personally identifiable information is redacted. Similarly, 760(h)(2)(B) of the act further protects personally-identifiable information in adverse event reports provided by FDA to any state official.

11. Justification for Sensitive Questions

There are no questions of a sensitive nature.

12. Estimates of Annualized Burden Hours and Costs

12a. Annualized Hour Burden Estimate

Respondents to this collection of information are manufacturers, packers, and distributors whose name (under section 502(b)(1) (21 U.S.C. 352(b)(1)) of the Federal Food, Drug, and Cosmetic Act (FD&C Act)) appears on the label of a nonprescription drug marketed in the United States. The estimates for the annual reporting and recordkeeping burdens are based on FDA data on the number of adverse drug experience reports submitted for nonprescription drug products marketed without an approved application, including FDA's knowledge about the time needed to prepare the reports and to maintain records.

Based on FDA data, we estimate between 10,000 and 15,000 (i.e., approximately 12,500) total annual responses from approximately 50 respondents for nonprescription drugs marketed without an approved application, and, and explained under section 8 above, we also estimate that each submission will take approximately 6 hours to prepare and submit.

Table 1. -- Estimated Annual Reporting Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Average Burden per Response	Total Hours
Reports of serious adverse drug events (21 U.S.C. 379aa((b) and (c))	50	250	12,500	6	75,000

Section 760(e) of the FD&C Act also requires that responsible persons maintain records of nonprescription adverse event reports, whether or not the event is serious, for a period of 6 years. The guidance document recommends that respondents maintain records of efforts to obtain the minimum data elements for a report of a serious adverse drug event and any follow-up reports. We estimate that there are approximately 20,000 records per year maintained by approximately 200 respondents, and, as explained under section 8 above, we also estimate and that it takes approximately 8 hours to maintain each record.

Table 2. -- Estimated Annual Recordkeeping Burden

	No of Recordkeepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeep-ing	Total Hours
Recordkeep-ing (21 U.S.C. 379aa(e)(1))	200	100	20,000	8	160,000

13. Estimates of Other Total Annual Costs to Respondents and/or Recordkeepers/Capital Costs

FDA has estimated an average industry wage rate of $85.00 per hour for preparing and submitting the information collection under this guidance. Using this averaged wage rate, and multiplied times the total hour burden estimated above, the total cost burden to respondents is $13,600,000.

14. Annualized Cost to the Federal Government

Initial implementation and ongoing administrative activities related to the review of postmarketing adverse event reports for nonprescription human drug products marketed without an approved application include:

• Operating the expanded data systems, including data entry of new reports;

• Maintaining the drug registry for nonprescription drugs;

• Reviewing reports of adverse events;

• Overseeing compliance with new labeling and reporting requirements;

• Inspecting records, assessing fines, and other compliance activities.

FDA estimates ongoing costs associated with FDA's enforcement activities will be approximately $500,000 a year, totaling $4 million over the 2010-2016 period.

15. Explanation for Program Changes or Adjustments

An adjustment in previous reporting and recordkeeping burden hours has been made after consideration of an industry comment (see section 8 above).

16. Plans for Tabulation and Publication and Project Time Schedule

There are no publications.

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

The agency is not seeking to display the expiration date of OMB approval of the information collection.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification.