Current Good Manufacturing Practice in Manufacturing,
Packaging, Labeling, or Holding Operations for Dietary Supplements

OMB Control No. 0910-0606

SUPPORTING STATEMENT

Terms of Clearance: None.

A. Justification

1. Circumstances Making the Collection of Information Necessary

On October 25, 1994, the Dietary Supplement Health and Education Act (DSHEA) (Public Law 103–417) was signed into law. DSHEA, among other things, amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by adding section 402(g) of the FD&C Act (21 U.S.C. 342(g)). Section 402(g)(2) of the FD&C Act provides, in part, that the Secretary of Health and Human Services may, by regulation, prescribe good manufacturing practices (CGMP) for dietary supplements. Section 402(g) of the FD&C Act also stipulates that such regulations will be modeled after CGMP regulations for food and may not impose standards for which there are no current, and generally available, analytical methodology. Section 402(g)(1) of the FD&C Act states that a dietary supplement is adulterated if "it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations." Under section 701(a) of the FD&C Act (21 U.S.C. 371), FDA may issue regulations necessary for the efficient enforcement of the FD&C Act. In the Federal Register of June 25, 2007 (72 FR 34752), FDA published a final rule (the final rule) that established, in part 111 (21 CFR part 111), the minimum CGMP necessary for activities related to manufacturing, packaging, labeling, or holding dietary supplements to ensure the quality of the dietary supplement.

We request OMB approval of the following information collection requirements:

21 CFR Part 111 -- Recordkeeping:
Requires firms to retain, and make available to regulatory officials, records regarding current good manufacturing practice for dietary supplements.

2. Purpose and Use of the Information Collection

Records are an indispensable component of CGMP. The records required by FDA's regulations in part 111 provide the foundation for the planning, control, and improvement processes that constitute a quality control system. Implementation of these processes in a manufacturing operation serves as the backbone to CGMP. The records will show what is to be manufactured; what was, in fact, manufactured; and whether the controls that the manufacturer put in place to control the identity, purity, strength, and composition and limits on contaminants and to prevent adulteration were effective. Further, records will show whether and what deviations from control processes occurred, facilitate evaluation

and corrective action concerning these deviations (including, where necessary, whether associated batches of product should be recalled from the marketplace), and enable a manufacturer to assure that the corrective action was effective. In addition, by establishing recordkeeping requirements, FDA can ensure that industry follows CGMP during manufacturing, packaging, labeling, or holding operations. The regulations in part 111 establish the minimum manufacturing practices necessary to ensure that dietary supplements are manufactured, packaged, labeled, or held in a manner that will ensure the quality of the dietary supplements during manufacturing, packaging, labeling or holding operations.

The recordkeeping requirements of the regulations include establishing written procedures and maintaining records pertaining to: (1) Personnel; (2) sanitation; (3) calibration of instruments and controls; (4) calibration, inspection, or checks of automated, mechanical, or electronic equipment; (5) maintaining, cleaning, and sanitizing equipment and utensils and other contact surfaces; (6) water used that may become a component of the dietary supplement; (7) production and process controls; (8) quality control; (9) components, packaging, labels and product received for packaging and labeling; (10) master manufacturing and batch production; (11) laboratory operations; (12) manufacturing operations; (13) packaging and labeling operations; (14) holding and distributing operations; (15) returned dietary supplements; and (16) product complaints.

Description of Respondents: Manufacturers, dietary supplement manufacturers, packagers and repackagers, labelers and re-labelers, holders, distributors, warehousers, exporters, importers, large businesses, and small businesses engaged in the dietary supplement industry. Respondents are from the private sector (for-profit businesses).

3. Use of Improved Information Technology and Burden Reduction

The regulation does not specifically prescribe the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology as necessary for use by firms. Companies are free to use whatever forms of information technology may best assist them in retaining the appropriate records and making them available to regulatory officials. FDA estimates that about seventy-five percent (75%) of the records will be collected electronically.

4. Efforts to Identify Duplication and Use of Similar Information

No duplication of Federal regulations concerning recordkeeping requirements for the manufacturing, packaging, labeling or holding of dietary supplements is likely because of the clear Congressional authorization that FDA promulgate regulations pertaining to the manufacture of dietary supplements as opposed to the jurisdiction of the U.S. Department of Agriculture (meats and poultry) and the Federal Trade Commission (advertising).

5. Impact on Small Businesses or Other Small Entities

FDA estimates that a substantial proportion (75%) of firms affected by this regulation are small businesses, and has kept their particular needs in mind throughout the implementation of these regulations. Small businesses with fewer than 20 employees were given an additional 2 years to comply with the 2007 final rule. Small businesses with 20 to 499 employees were given an additional year to comply with the final rule. FDA aids small businesses in complying with its requirements through the Agency's Regional Small Business Representatives and through the administrative and scientific staffs within the Agency. FDA has provided a Small Business Guide on the Agency's website at http://www.fda.gov/oc/industry/.

6. Consequences of Collecting the Information Less Frequently

Data collection occurs daily. Less frequent collections of information would reduce the documentation that is intended to ensure that dietary supplements are manufactured, packaged, labeled, and held in a manner that will ensure the quality of the dietary supplement and that the dietary supplement is packaged and labeled as specified in the master manufacturing record.

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

There are no special circumstances associated with this collection of information.

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 September 29, 2016 (81 FR 66967). FDA received comments from two commenters.

(Comment) One commenter had concerns about whether the processes being used to assess the contents of supplements are genuine and accurate and how this is regulated; whether records regarding labeling indicate what is actually contained in a supplement; and whether these records will be available to the public.

These comments appear to address PRA issues of practical utility and ways to enhance the quality, utility, and clarity of the information to be collected.

(Response) In this collection of information, FDA is evaluating the burden of retaining records and making them available to regulatory officials, but not the burden for proactively submitting them to FDA. FDA reviews the records maintained while conducting an investigation (e.g., during a facility inspection and during the follow up communication until a particular investigation is closed out). The investigation of a particular firm by FDA is exempt from the Paperwork Reduction Act and is not included as part of the burden estimate. The required elements of labeling are part of different

regulations and do not apply to this collection of information. The commenter also discussed the safety of a particular product but current good manufacturing practice (CGMP) regulations deal with establishing a quality product, not necessarily a safe product. Finally, the commenter discussed allowing the records maintained to be made public, but these records are required to be maintained by the firm and are not proactively submitted to FDA, they are required to be made available to FDA during inspections. If FDA obtains these records during the investigation of a firm, the public can submit a Freedom of Information Act (FOIA) request but the document they would typically receive would be redacted because the records are the property of the firm.

(Comment) The second commenter stated that the labeling on dietary supplement products should be consistent and FDA regulated, the term "healthy" should be required to have a standard meaning, and "healthy" should not be allowed to be used unless it meets FDA requirements of the term.

(Response) The recordkeeping for current good manufacturing practices (CGMP) has nothing to do with the required elements of food and dietary supplement) labeling, which are covered under FDA's labeling regulations. FDA has recently published a new final rule for Nutrition (and Supplement) Facts Labels, and is currently reviewing new requirements for labeling your food "healthy". This information collection for CGMP addresses recordkeeping for specifications for a label and labeling operations.

9. Explanation of Any Payment or Gift to Respondents

FDA does not provide any payment or gift to respondents.

10. Assurance of Confidentiality Provided to Respondents

Company records describing manufacturing procedures, which may be consulted during FDA plant inspections, and records that the Agency may copy or take possession of, often contain trade secret and commercial confidential information. Confidential commercial information is protected from disclosure under the Freedom of Information Act (FOIA) under sections 552(a) and (b) (5 U.S.C. 552(a) and (b)), by Section 301(j) of the FD&C Act, and by part 20 of the Agency's regulations (21 CFR part 20).

11. Justification for Sensitive Questions

This information collection does not involve questions that are of a personally sensitive nature.

12. Estimates of Annualized Burden Hours and Costs

12 a. Annualized Hour Burden Estimate

The recordkeeping requirements of the regulations in part 111 are set forth in each subpart. In Table 1, of this document we list the annual burdens associated with

recordkeeping. For some provisions listed in Table 1, we did not estimate the number of records per recordkeeper because recordkeeping occasions consist of frequent brief entries of dates, temperatures, monitoring results, or documentation that specific actions were taken. Information might be recorded a few times a day, week, or month. When the records burden involves frequent brief entries, we entered one as the default for the number of records per recordkeeper. For example, many of the records listed under §111.35 in Table 1, such as §111.35(b)(2) (documentation, in individual equipment logs, of the date of the use, maintenance, cleaning, and sanitizing of equipment), involve many short sporadic entries over the course of the year, varying across equipment and plants in the industry. We did not attempt to estimate the actual number of recordkeeping occasions for these provisions, but instead entered an estimate of the average number of hours per year. We entered the default value of 1 as the number of records per recordkeeper for these and similar provisions. For §111.35, the entry for number of records is 1 as a default representing a large number of brief recordkeeping occasions.

In many rows of Table1, we list a burden under a single provision that covers the written procedures or records described in several provisions. For example, the burden of the batch production records listed in Table 1 under §111.260 includes the burden for records listed under 111.255 because the batch production records must include those records.

The number of records for batch production records (and other records kept on a batch basis in Table 1) equals the annual number of batches. The estimated burden for records kept by batch includes both records kept for every batch and records kept for some but not all batches. We use the annual number of batches as the number of records that will not necessarily be kept for every batch, such as test results or material review and disposition records, because such records are part of records, if they are necessary, that will be kept for every batch.

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

21 CFR Section/Activity	No. of Record-keepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
111.14, records of personnel practices, including documentation of training	15,000	4	60,000	1	60,000
111.23, records of physical plant sanitation practices, including pest control and water quality	15,000	1	15,000	0.2 (12 minutes)	3,000
111.35, records of equipment and utensils calibration and sanitation practices	400	1	400	12.5	5,000
111.95, records of production and process control systems	250	1	250	45	11,250

21 CFR Section/Activity	No. of Record-keepers	No. of Records per Recordkeeper	Total Annual Records	Average Burden per Recordkeeping	Total Hours
111.140, records that quality control personnel must make and keep	240	1163	279,120	1	279,120
111.180, records associated with components, packaging, labels, and product received for packaging and labeling as a dietary supplement	240	1163	279,120	1	279,120
111.210, requirements for what the master manufacturing record must include	240	1	240	2.5	600
111.260, requirements for what the batch record must include	145	1408	204,160	1	204,160
111.325, records that quality control personnel must make and keep for laboratory operations	120	1	120	15	1,800
111.375, records of the written procedures established for manufacturing operations	260	1	260	2	520
111.430, records of the written procedures for packaging and labeling operations	50	1	50	12.6	630
111.475, records of product distribution and procedures for holding and distributing operations	15,000	1	15,000	0.4 (24 minutes)	6,000
111.535, records for returned dietary supplements	110	4	440	13.5	5,940
111.570, records regarding product complaints	240	600	144,000	0.5 (30 minutes)	72,000
Total					929,140

The burden estimates in Table 1 are based on those in the June 25, 2007 final rule, and include the agency's institutional experience with other CGMP requirements and on data provided by Research Triangle Institute (RTI) in the "Survey of Manufacturing Practices in the Dietary Supplement Industry" cited in that rule.

The estimates in Table 1 of the number of firms affected by each provision of part 111 are based on the percentage of manufacturers, packagers, labelers, holders, distributors, and warehousers that reported in the survey that they have not established written SOPs

or do not maintain records that were later required by the June 25, 2007 final rule. Because we do not have survey results for general warehouses, we entered the approximate number of facilities in that category for those provisions covering general facilities. For the dietary supplement industry, the survey estimated that 1,460 firms would be covered by the final rule, including manufacturers, packagers, labelers, holders, distributors, and warehousers. The time estimates include the burden involved in documenting that certain requirements are performed and in recordkeeping. We used an estimated annual batch production of 1,408 batches per year to estimate the burden of requirements that are related to the number of batches produced annually, such as §111.260, "What must the batch production record include?" The estimate of 1,408 batches per year is near the midpoint of the number of annual batches reported by survey firms.

The length of time that CGMP records must be maintained is set forth in §111.605. Table 1 reflects the estimated burdens for written procedures, record maintenance, periodically reviewing records to determine if they may be discarded, and for any associated documentation for that activity for records that are required under part 111. We have not included a separate estimate of burden for those sections that require maintaining records in accordance with §111.605, but have included those burdens under specific provisions for keeping records. For example, §111.255(a) requires that the batch production records be prepared every time a batch is manufactured, and §111.255(d) requires that batch production records be kept in accordance with §111.605. The estimated burdens for both §111.255(a) and (d) are included under §111.260 (what the batch record must include).

12b. Annualized Cost Burden Estimate

FDA estimates that the average hourly wage for respondents' workers involved in recordkeeping is equivalent to a GS-5-1 level in the locality pay area of Washington-Baltimore in 2017, approximately $17.38/hour. Doubling this wage to account for overhead costs, FDA estimates the average hourly cost to respondents to be $34.76/hour. The overall estimated cost incurred by the respondents is $32,296,906 (929,140 burden hours x $34.76/hr = $32,296,906).

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

There are no capital, start-up, operating, or maintenance costs associated with this collection.

14. Annualized Cost to the Federal Government

FDA's review of the retained records would generally occur as part of its routine or for cause establishment inspection activities. FDA estimates that its review of the retained records would take five hours per inspection. FDA estimates the hourly cost for review and evaluation to be $45.42 per hour, the GS-13/Step-1 rate for the Washington-

Baltimore locality pay area for the year 2017. To account for overhead, this cost is increased by 100 percent, making the total cost $90.84 per hour. FDA estimates the cost to the Federal Government for the review of records to be $454.20 per review ($90.84/hour x 5 hours) and that it reviews records for an average of 100 inspections per year. Thus, FDA estimates the total annual cost to the Federal Government to be $45,420 ($454.20 x 100 inspections).

15. Explanation for Program Changes or Adjustments

There are no changes in the burden estimate for this collection.

The previously approved ICR submitted to OMB in 2014 consolidated fourteen ICs entered in ROCIS into thirteen ICs. We continued to maintain this consolidation in ROCIS with this submission. However, the information collection activities and the burden associated with each IC remain separated into fourteen ICs in this supporting statement and in the table in Item 12.

16. Plans for Tabulation and Public Time Schedule

The results of this information collection will not be published.

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

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.