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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

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C: J.O.

[Docket No. FDA-2009-N-0075]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device Reporting: Manufacturer, Importer, User Facility, and Distributor Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on medical device reporting (MDR); manufacturer, importer, user facility, and distributor reporting.

DATES: Submit written or electronic comments on the collection of information by *[insert date 60 days after date of publication in the **Federal Register**]*.

ADDRESSES: Submit electronic comments on the collection of information to: <http://www.regulations.gov>. Submit written comments on the collection of information to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All

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comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management (HFA-710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-796-3793.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through

the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Device Reporting: Manufacturer, Importer, User Facility, and Distributor Reporting—21 CFR Part 803 (OMB Control Number 0910–0437)—Extension

Section 519(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360i(a)(1)) requires every manufacturer or importer to report “whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed devices: (A) May have caused or contributed to a death or serious injury, or (B) has malfunctioned and that such device or a similar device marketed by the manufacturer or importer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur * * *.”

Section 519(b)(1)(A) of the act requires “whenever a device user facility receives or otherwise becomes aware of information that reasonably suggests that a device has or may have caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 10 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.”

Section 519(b)(1)(B) of the act requires “whenever a device user facility receives or otherwise becomes aware of: (i) Information that reasonably suggests that a device has or may have caused or contributed to the serious illness of, or serious injury to, a patient of the facility * * *, shall, as soon as practicable but not later than 10 working days after becoming aware of the information, report the information to the manufacturer of the device or to the Secretary if the identity of the manufacturer is not known.”

Complete, accurate, and timely adverse event information is necessary for the identification of emerging device problems. Information from these reports will be used to evaluate risks associated with medical devices which will enable FDA to take appropriate regulatory measures in protection of the public health under section 519 of the act. Thus FDA is requesting approval for these information collection requirements which are being implemented under part 803 (21 CFR part 803).

Respondents to this collection of information are businesses or other for-profit and nonprofit organizations including user facilities, manufacturers, and importers of medical devices.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

21 CFR Section	FDA Form No.	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
803.19		57	4	228	3.0	684
803.30 and .32		393	2	777	1.0	777
803.33	3419	393	1	393	1	393
803.40 and .42		73	37	2,682	1.0	2,682
803.50 and .52		1,601	104	166,271	1.0	166,271
803.56		1,200	63	76,186	1.0	76,186
Total				246,537		246,993

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

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Record	Total Hours
803.17	220	1	220	10	2,200
803.18 (a) through (d)	30,000	1	30,000	1.5	45,000
Total					47,200

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

Part 803 requires user facilities to report to the device manufacturer and to FDA in case of a death, incidents where a medical device caused or contributed to a death or serious injury. Additionally, user facilities are required to annually submit the number and summary of advents reported during the calendar year, using FDA Form 3419. Manufacturers of medical

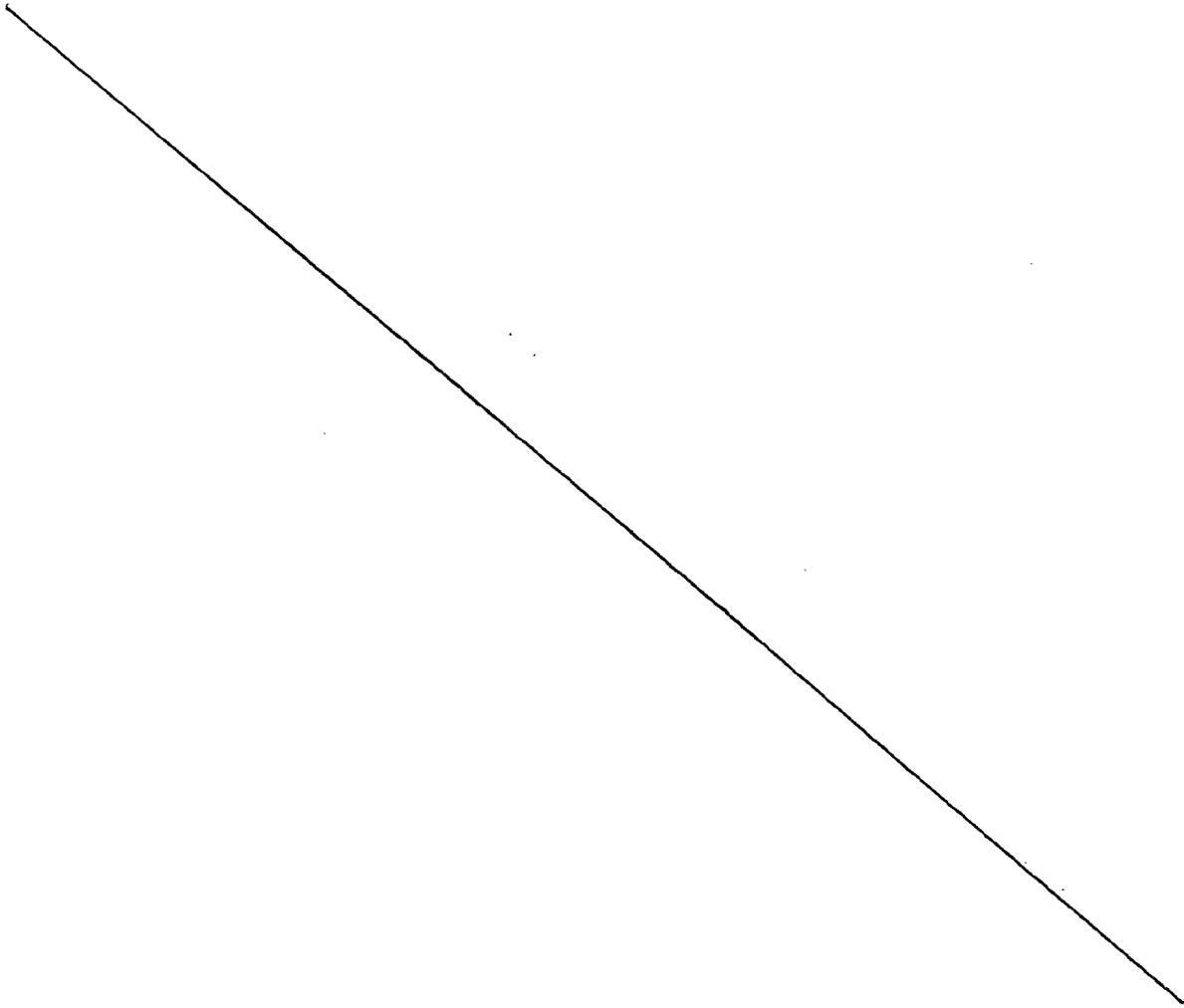
devices are required to report to FDA when they become aware of information indicating that one of their devices may have caused or contributed to death or serious injury or has malfunctioned in such a way that should the malfunction recur it would be likely to cause or contribute to a death or serious injury. Device importers report deaths and serious injuries to the manufacturers and FDA. Importers report malfunctions only to the manufacturers, unless they are unknown, then the reports are sent to FDA.

The number of respondents for each CFR section in table 1 of this document is based upon the number of respondents entered into FDA's internal databases. FDA estimates, based on its experience and interaction with the medical device community, that all reporting CFR sections are expected to take 1 hour to complete, with the exception of § 803.19. Section 803.19 is expected to take approximately 3 hours to complete, but is only required for reporting the summarized data quarterly to FDA. By summarizing events, the total time used to report for this section is reduced because the respondents do not submit a full report for each event they report in a quarterly summary report.

The agency believes that the majority of manufacturers, user facilities, and importers have already established written procedures to document complaints and information to meet the MDR requirements as part of their internal quality control system. There are an estimated 30,000 medical device distributors. Although they do not submit MDR reports, they must maintain records of complaints, under § 803.18(d).

The agency has estimated that on average 220 user facilities, importers, and manufacturers would annually be required to establish new procedures, or revise existing procedures, in order to comply with this provision.

Therefore, FDA estimates the one-time burden to respondents for establishing or revising procedures under § 803.17 to be 2,200 hours (220 respondents x 10 hours). For those entities, a one-time burden of 10 hours is estimated for establishing written MDR procedures. The remaining manufacturers, user facilities, and importers, not required to revise their written procedures to comply with this provision, are excluded from the burden because the recordkeeping activities needed to comply with this provision are considered “usual and customary” under 5 CFR 1320.3(b)(2).

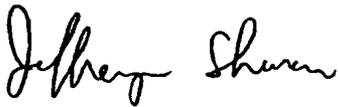


Under § 803.18, 30,000 respondents represent distributors, importers, and other respondents to this information collection. FDA estimates that it should take them approximately 1.5 hours to complete the recordkeeping requirement for this section. Total hours for this section equal 45,000 hours.

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Dated: _____

February 19, 2009.



Jeffrey Shuren,
Associate Commissioner for Policy and Planning.

[FR Doc. 09-????? Filed ??-??-09; 8:45 am]

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