

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Certifier	M. Bell

Food and Drug Administration

[Docket No. 99D-0529]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

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**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, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information contained in a guidance for industry entitled "Changes to an Approved NDA or ANDA." The guidance is intended to assist applicants in determining how they should report changes to an approved new drug application (NDA) or abbreviated new drug application (ANDA) under section 116 of the Food and Drug Administration Modernization Act (the Modernization Act), which provides requirements for making and reporting manufacturing changes to an approved application and for distributing a drug product made with such changes.

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

**ADDRESSES:** Submit written comments on the collection of information to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

**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, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (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.

### **Guidance for Industry: Changes to an Approved NDA or ANDA**

On November 21, 1997, the President signed into law the Modernization Act (Public Law 105-115). Section 116 of the Modernization Act amended the Federal Food, Drug, and Cosmetic Act (the act) by adding section 506A (21 U.S.C. 356a), which describes requirements and procedures for making and reporting manufacturing changes to approved new drug and ANDAs', to new and abbreviated animal drug applications, and to license applications for biological products.

The guidance provides recommendations to holders of approved new drug and ANDA's who intend to make postapproval changes in accordance with section 506A of the act. The guidance covers recommended reporting categories for postapproval changes for drugs, other than specified biotechnology and specified synthetic biological products. Recommendations are provided for postapproval changes in: (1) Components and composition, (2) sites, (3) manufacturing process, (4) specification(s), (5) package, (6) labeling, and (7) miscellaneous changes.

Section 116 of the Modernization Act amended the act by adding section 506A, which includes the following provisions:

1. A drug made with a **manufacturing change**, whether a major manufacturing change or otherwise, may be distributed only after the applicant validates the effects of the change on the identity, strength, quality, purity, and potency of the drug as these factors may relate to the safety or effectiveness of the drug (section 506A(a)(1) and (b) of the act). This section recognizes that additional testing, beyond testing to ensure that an approved specification is met, is required to ensure unchanged identity, **strength**, quality, purity, or potency as these factors may relate to the safety or effectiveness of the drug.

2. A drug made with a major manufacturing change may be distributed only after the applicant submits a supplemental application to FDA and the supplemental application is approved by the agency. The application is required to contain information determined to be appropriate by FDA and include the information developed by the applicant when "validating the effects of the change" (section 506A(c)(1) of the act).

3. A major manufacturing **change** is a manufacturing change determined by FDA to have substantial potential to adversely affect the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug. Such changes include: (1) A change made in the qualitative or quantitative formulation of the drug involved or in the specifications in the approved application or license unless exempted by FDA by regulation or guidance; (2) a change determined by FDA by regulation or guidance to require completion of

an appropriate clinical study demonstrating equivalence of the drug to the drug manufactured without the change; and (3) other changes determined by FDA by regulation or guidance to have a substantial potential to adversely affect the safety or effectiveness of the drug (section 506A(c)(2) of the act).

4. FDA may require submission of a supplemental application for drugs made with manufacturing changes that are not major (section 506A(d)(1)(B) of the act) and establish categories of manufacturing changes for which a supplemental application is required (section 506A(d)(1)(C) of the act). In such a case the applicant may begin distribution of the drug 30 days after FDA receives a supplemental application unless the agency notifies the applicant within the 30-day period that prior approval of the application is required (section 506A(d)(3)(B)(i) of the act). FDA may also designate a category of manufacturing changes that permit the applicant to begin distributing a drug made with such changes upon receipt by the agency of a supplemental application for the change (section 506A(d)(3)(B)(ii) of the act). If FDA disapproves a supplemental application, the agency may order the manufacturer to cease the distribution of drugs that have been made with the disapproved change (section 506A(d)(3)(B)(iii) of the act).

5. FDA may authorize applicants to distribute drugs without submitting a supplemental application (section 506A(d)(1)(A) of the act) and may establish categories of manufacturing changes that may be made without submitting a supplemental application (section 506A(d)(1)(C) of the act). The applicant is required to submit a report to FDA on such a change and the report is required to contain information the agency deems to be appropriate and information developed by the applicant when validating the effects of the change. FDA may also specify the date on which the report is to be submitted (section 506A(d)(2)(A) of the act). If during a single year an applicant makes more than one manufacturing change subject to an annual reporting requirement, FDA may authorize the applicant to submit a single report containing the required information for all the changes made during the year (annual report) (section 506A(d)(2)(B) of the act).

Section 506A of the act provides FDA with considerable flexibility to determine the information and filing mechanism required for the agency to assess the effect of manufacturing changes in the safety and effectiveness of the product. There is a corresponding need to retain such flexibility in the guidance on section 506A of the act to ensure that the least burdensome means for reporting changes are available. FDA believes that such flexibility will allow it to be responsive to increasing knowledge of and experience with certain types of changes and help ensure the efficacy and safety of the products involved. For example, a change that may currently be considered to have a substantial potential to have an adverse effect on the safety or effectiveness of the product may, at a later date, based on new information or advances in technology, be determined to have a lesser potential to have such an adverse effect. Conversely, a change originally considered to have a minimal or moderate potential to have an adverse effect on the safety or effectiveness of the product may later, as a result of new information, be found to have an increased, substantial potential to adversely affect the product. The guidance enables the agency to respond more readily to knowledge gained from manufacturing experience, further research and data collection, and advances in technology. The guidance describes the agency's current interpretation of specific changes falling into the four filing categories. Section 506A of the act explicitly provides FDA the authority to use guidance documents to determine the type of changes that do or do not have a substantial potential to adversely affect the safety or effectiveness of the drug product. The use of guidance documents allows FDA to more easily and quickly modify and update important information.

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

**TABLE 1 .-ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>**

Federal Food, Drug, and Cosmetic Act Section	Number of Re-spondents	Number of Re-sponses per Respondent	Total Annual Responses	Hours per Response	Total Hours
<b>506A(c)(1)</b> and (c)(2) Prior Approval Supp.	594	3	1,744	120	209,280
<b>506A(d)(1)(B), (d)(1)(C), and (d)(3)(B)(i)</b> CBE in 30-days Supp.	594	5	2,754	80	220,320
<b>506A(d)(1)(B), (d)(1)(C), and (d)(3)(B)(ii)</b> CBE Supp.	486	1	486	80	38,880

TABLE 1 --ESTIMATED ANNUAL REPORTING BURDEN\*-Continued

Federal Food, Drug, and Cosmetic Act Section	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
506A(d)(1)(A), (d)(1)(C), (d)(2)(A), and (d)(2)(B) Annual Report	704	10	6,929	25	173,225
Total					641,705

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

Section 506A(a)(1) and (b) of the act requires the holder of an approved application to validate the effects of a manufacturing change on the identity, strength, quality, purity, or potency of the drug as these factors may relate to the safety or effectiveness of the drug before distributing a drug made with the change. Under section 506A(d)(3)(A) of the act, information developed by the applicant to validate the effects of the change regarding identity, strength, quality, purity, and potency is required to be submitted to FDA as part of the supplement or annual report. Thus, no separate estimates are provided for these sections in Table 1 of this document; estimates for validation requirements are included in the estimates for supplements and annual reports. The guidance does not provide recommendations on the specific information that should be developed by the applicant to validate the effect of the change on the identity, strength (e.g., assay, content uniformity), quality (e.g., physical, chemical, and biological properties), purity (e.g., impurities and degradation products), or potency (e.g., biological activity, bioavailability, bioequivalence) of a product as they may relate to the safety or effectiveness of the product.

Section 506A(c)(1) and (c)(2) of the act sets forth requirements for changes requiring supplement submission and approval prior to distribution of the product made using the change (major changes). Under this section, a supplement must be submitted for any change in the product, production process, quality controls, equipment, or facilities that has a substantial potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product. The applicant must obtain approval of a supplement from FDA prior to distribution of a product made using the change.

Based on data concerning the number of supplements received by the agency, FDA estimates that approximately 1,744 supplements will be submitted annually under section 506A(c)(1) and

(c)(2) of the act. FDA estimates that approximately 594 applicants will submit such supplements, and that it will take approximately 120 hours to prepare and submit to FDA each supplement.

Section 506A(d)(1)(B), (d)(1)(C), and (d)(3)(B)(i) of the act sets forth requirements for changes requiring supplement submission at least 30 days prior to distribution of the product made using the change (moderate changes). Under this section, a supplement must be submitted for any change in the product, production process, quality controls, equipment, or facilities that has a moderate potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product. Distribution of the product made using the change may begin not less than 30 days after receipt of the supplement by FDA.

Based on the data concerning the number of supplements received by the agency, FDA estimates that approximately 2,754 supplements will be submitted annually under section 506A(d)(1)(B), (d)(1)(C), and (d)(3)(B)(i) of the act. FDA estimates that approximately 594 applicants will submit such supplements, and that it will take approximately 80 hours to prepare and submit to FDA each supplement.

Under section 506A(d)(3)(B)(ii) of the act, FDA may designate a category of changes for the purpose of providing that, in the case of a change in such category, the holder of an approved application may commence distribution of the drug upon receipt by the agency of a supplement for the change. Based on the data concerning the number of supplements received by the agency, FDA estimates that approximately 486 supplements will be submitted annually under section 506A(d)(3)(B)(ii) of the act. FDA estimates that approximately 486 applicants will submit such supplements, and that it will take approximately 80 hours to prepare and submit to FDA each supplement.

Section 506A(d)(1)(A), (d)(1)(C), (d)(2)(A), and (d)(2)(B) of the act sets forth requirements for changes to be described in an annual report (minor changes). Under this section, changes in the product, production process, quality controls, equipment, or facilities that have a minimal

potential to have an adverse effect on the identity, strength, quality, purity, or potency of the product as these factors may relate to the safety or effectiveness of the product must be documented by the applicant in the next annual report.

Based on the data concerning the number of supplements and annual reports received by the agency, FDA estimates that approximately 6,929 annual reports will include documentation of certain manufacturing changes as required under section 506A(d)(1)(A), (d)(1)(C), (d)(2)(A), and (d)(2)(B) of the act. FDA estimates that approximately 704 applicants will submit such information, and that it will take approximately 25 hours to prepare and submit to FDA the information for each annual report.

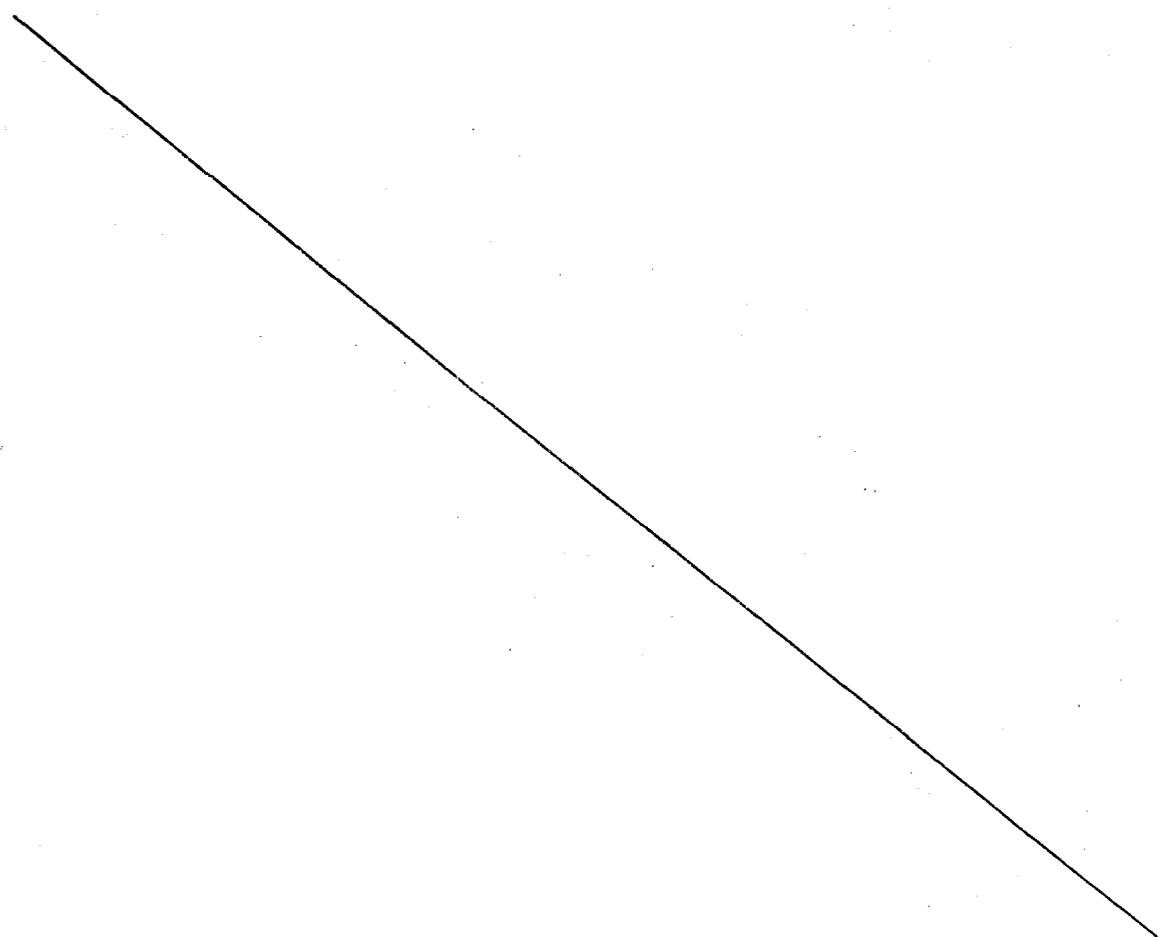
In the **Federal Register** of June 28, 1999 (64 FR 34608), FDA published a proposed rule to implement section 116 of the Modernization Act by revising current regulations at § 314.70 (21 CFR 314.70) on supplements and other changes to an approved application. In that same issue of the **Federal Register** (64 FR 34660), FDA published a notice of availability of a draft guidance for industry entitled “Changes to an Approved NDA or ANDA.” On August 19, 1999, FDA held a public meeting to discuss and receive comments on the proposed regulations and the draft guidance (64 FR 42625, August 5, 1999).

The period for public comment on the proposed regulations closed on September 13, 1999, and FDA is currently reviewing the comments and preparing a final rule. The comment period for the draft guidance closed on August 27, 1999, and FDA has considered these comments when preparing the guidance that is the subject of this request.

In the **Federal Register** of November 23, 1999 (64 FR 65176), FDA requested emergency processing of this proposed collection of information under section 3507(j) of the PRA and 5 CFR 1320.13. The information is needed immediately to implement section 506A of the act. The use of normal information clearance procedures would likely result in the prevention or disruption of this collection of information because section 506A of the act takes effect on November 21, 1999. After November 20, 1999, and until final regulations are promulgated revising § 314.70,

section 506A of the act will be the sole basis for FDA's regulation of postapproval manufacturing changes for products approved under NDA's or ANDA's. The guidance provides recommendations to holders of approved new drug and ANDA's who intend to make postapproval changes in accordance with section 506A of the act. Section 506A of the act explicitly provides FDA the authority to use guidance documents to determine the type of changes that do or do not have a substantial potential to adversely affect the safety or effectiveness of the drug product.

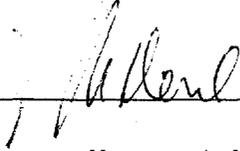
OMB has now approved the collection of information and has assigned OMB control number 09 10-043 1. This 6-month approval expires on May 31, 2000. By that date, FDA hopes to have completed the normal information clearance process initiated by this 60-day notice, and the agency hopes to obtain OMB approval for this collection of information for the usual 3-year period. An



agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: 12/29/99

December 29, 1999



Margaret M. Dotzel  
Acting Associate Commissioner for Policy

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