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DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Certifier A. Corbin

Food and Drug Administration

[Docket No. 02N-0053]

Agency Information Collection Activities; Proposed
Collection; Comment Request; State Petitions for Exemption
from Preemption

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 reporting requirements contained in
existing FDA regulations governing State petitions for
exemption from preemption.

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

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ADDRESSES: Submit electronic comments on the collection of information to

<http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.e.cfm>. 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: Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

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: (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.

State Petitions for Exemption From Preemption--21 CFR
100.1(d) (OMB Control No. 0910-0277)--Extension

Under section 403A(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343-1(b)), States may petition FDA for exemption from Federal preemption of State food labeling and standard of identity requirements.

Section 100.1(d) (21 CFR 100.1(d)) sets forth the information a State is required to submit in such a petition. The information required under § 100.1(d) enables FDA to determine whether the State food labeling or standard of identity requirement satisfies the criteria of section 403A(b) of the act for granting exemption from Federal preemption.

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

Table 1. -- Estimated Annual Reporting Burden¹

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
100.1(d)	1	1	1	40	40

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

The reporting burden for § 100.1(d) is insignificant because petitions for exemption from preemption are seldom submitted by States. In the last 3 years, FDA has not received any new petitions; therefore, the agency estimates that one or fewer petitions will be submitted annually. Because § 100.1(d) implements a statutory information collection requirement, only the additional burden attributable to the regulation has been included in the estimate. Although FDA believes that the burden will be insignificant, it believes these information collection

provisions should be extended to provide for the potential future need of a State or local government to petition for an exemption from preemption under the provisions of section 403(A) of the act.

Dated: 2-26-02

February 26, 2002.

Margaret M. Dotzel

Margaret M. Dotzel, Associate Commissioner for Policy.
[FR Doc. 02-????? Filed ??-??-02; 8:45 am]

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[Signature]