

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2008-N-0512]

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Display Date 12-15-08  
Publication Date 12-16-08  
Certifier A. Corbin

**Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Devices: Humanitarian Use Devices**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

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**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Fax written comments on the collection of information by *[insert date 30 days after date of publication in the Federal Register]*.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-6974, or e-mailed to *oira\_\_submissions@omb.eop.gov*. All comments should be identified with the OMB control number 0910-0332. Also include the FDA 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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Medical Devices: Humanitarian Use Devices—21 CFR Part 814 (OMB Control Number 0910–0332)—Extension**

This collection of information implements the humanitarian use device (HUD) provision of section 520(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(m)) and subpart H, part 814 (21 CFR part 814). Under section 520(m) of the act, FDA is authorized to exempt a HUD from the effectiveness requirements of sections 514 and 515 of the act (21 U.S.C. 360d and 360e) provided that the device: (1) Is used to treat or diagnose a disease or condition that affects fewer than 4,000 individuals in the United States; (2) would not be available to a person with such a disease or condition unless an exemption is granted, because there is no comparable device other than another HUD approved under this exemption that is available to treat or diagnose the disease or condition; and (3) will not expose patients to an unreasonable or significant risk of illness or injury with the probable benefit to health from using the device outweighing the risk of injury or illness from its use. This takes into account the probable risks and benefits of currently available devices or alternative forms of treatment.

The information collected will assist FDA in making determinations on the following: (1) Whether to grant HUD designation of a medical device; (2) exempt a HUD from the effectiveness requirements under sections 514 and 515 of the act, provided that the device meets requirements set forth under section 520(m) of the act; and (3) whether to grant marketing approval(s) for the HUD. Failure to collect this information would prevent FDA from making a determination on the factors listed previously in this document. Further, the

collected information would also enable FDA to determine whether the holder of a HUD is in compliance with the HUD provisions under section 520(m) of the act.

In the **Federal Register** of October 1, 2008 (73 FR 57108), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

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

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours
814.102	14	1	14	40	560
814.104	6	1	6	320	1,920
814.106	6	2	12	50	600
814.108	32	1	32	80	2,560
814.116(e)(3)	1	1	1	1	1
814.124(a)	5	1	5	1	5
814.124(b)	4	1	4	2	8
814.126(b)(1)	45	1	45	120	5,400
<b>Total</b>					<b>11,054</b>

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

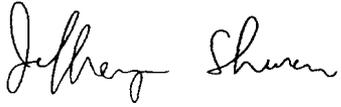
TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN<sup>1</sup>

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours Per Record	Total Hours
814.126(b)(2)	45	1	45	2	90
<b>Total</b>					<b>90</b>

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

The number of respondents in tables 1 and 2 of this document are an average from data for the previous 3 years, i.e., fiscal year 2005–2007. The number of annual reports submitted under § 814.126(b)(1) in table 1 reflects an increase to 45 respondents with approved HUD applications. Likewise, under § 814.126(b)(2) in table 2, the number of recordkeepers increased to 45.

Dated: 12/9/08  
December 9, 2008.



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Jeffrey Shuren,  
Associate Commissioner for Policy and Planning.

[FR Doc. 08-????? Filed ??-??-08; 8:45 am]

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