

of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2013-27221 Filed 11-13-13; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2013-N-1152]

#### Agency Information Collection Activities; Proposed Collection; Comment Request; Petition to Request an Exemption From 100 Percent Identity Testing of Dietary Ingredients: Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) 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 invites comments on the information collection provisions of our existing regulations governing petitions to request an exemption from 100 percent identity testing of dietary ingredients.

**DATES:** Submit either electronic or written comments on the collection of information by January 13, 2014.

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

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard

Dr., PI50-400B, Rockville, MD 20850, 301-796-3793, [PRAStaff@fda.hhs.gov](mailto:PRAStaff@fda.hhs.gov).

**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.

#### Petition To Request an Exemption From 100 Percent Identity Testing of Dietary Ingredients: Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements—21 CFR 111.75(a)(1)(ii) (OMB Control Number 0910-0608)—Extension

The Dietary Supplement Health and Education Act (Pub. L. 103-417) added section 402(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(g)), which provides, in part, that the Secretary of Health and Human Services (the Secretary) may, by regulation, prescribe good manufacturing practices for dietary supplements. 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." Section 701(a) of the FD&C Act (21 U.S.C. 371(a)) gives us the authority to issue regulations for the efficient enforcement of the FD&C Act.

Part 111 of our regulations (21 CFR part 111) establishes the minimum Current Good Manufacturing Practice (CGMP) necessary for activities related to manufacturing, packaging, labeling, or holding dietary supplements to ensure the quality of the dietary supplement. Section 111.75(a)(1) of our regulations (21 CFR 111.75(a)(1)) establishes a procedure for a petition to request an exemption from 100 percent identity testing of dietary ingredients. According to § 111.75(a)(1)(ii), manufacturers may request an exemption from the requirements set forth in § 111.75(a)(1)(i) when the dietary ingredient is obtained from one or more suppliers identified in the petition. The regulation clarifies that we are willing to consider, on a case-by-case basis, a manufacturer's conclusion, supported by appropriate data and information in the petition submission, that it has developed a system that it would implement as a sound, consistent means of establishing, with no material diminution of assurance compared to the assurance provided by 100 percent identity testing, the identity of the dietary ingredient before use.

Section 111.75(a)(1) reflects our determination that manufacturers that test or examine 100 percent of the incoming dietary ingredients for identity can be assured of the identity of the ingredient. However, we recognize that it may be possible for a manufacturer to demonstrate, through various methods and processes in use over time for its particular operation, that a system of less than 100 percent identity testing would result in no material diminution of assurance of the identity of the dietary ingredient as compared to the assurance provided by 100 percent identity testing. To provide an opportunity for a manufacturer to make such a showing and reduce the frequency of identity testing of components that are dietary ingredients from 100 percent to some lower frequency, we added to § 111.75(a)(1), an exemption from the requirement of 100 percent identity testing when a manufacturer petitions the Agency for such an exemption to 100 percent identity testing under 21 CFR 10.30 and the Agency grants such exemption. Such a procedure would be consistent with our stated goal, as described in the CGMP final rule, of providing flexibility in the CGMP requirements. Section

111.75(a)(1)(ii) sets forth the information a manufacturer is required to submit in such a petition. The regulation also contains a requirement to ensure that the manufacturer keeps our response to a petition submitted under § 111.75(a)(1)(ii) as a record

under § 111.95. The collection of information in § 111.95 has been approved under OMB Control No. 0910-0606.

*Description of Respondents:* The respondents to this collection of information are firms in the dietary supplement industry, including dietary

supplement manufacturers, packagers and re-packagers, holders, labelers and re-labelers, distributors, warehouses, exporters, importers, large businesses, and small businesses.

We estimate the burden of this collection of information as follows:

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

21 CFR Section; CGMP requirements for dietary supplements	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
111.75(a)(1)(ii) .....	1	1	1	8	8

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

In the last 3 years, we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients; therefore, the Agency estimates that one or fewer petitions will be submitted annually. Based on our experience with petition processes, we estimate it will take a requestor about 8 hours to prepare the factual and legal information necessary to support a petition for exemption and to prepare the petition. Although we have not received any new petitions to request an exemption from 100 percent identity testing of dietary ingredients in the last 3 years, we believe that OMB approval of these information collection provisions should be extended to provide for the potential future need of a firm in the dietary supplement industry to petition for an exemption from 100 percent identity testing of dietary ingredients.

Dated: November 7, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

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**BILLING CODE 4160-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2013-N-1393]

**Agency Information Collection Activities; Proposed Collection; Comment Request; Patent Term Restoration, Due Diligence Petitions, Filing, Format, and Content of Petitions**

**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 FDA’s patent term restoration regulations on due diligence petitions for regulatory review period revision. Where a patented product must receive FDA approval before marketing is permitted, the Office of Patents and Trademarks may add a portion of the FDA review time to the term of a patent. Petitioners may request reductions in the regulatory review time if FDA marketing approval was not pursued with “due diligence.”

**DATES:** Submit either electronic or written comments on the collection of information by January 13, 2014.

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

**FOR FURTHER INFORMATION CONTACT:** FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50-400B, Rockville, MD 20850, [PRAStaff@fda.hhs.gov](mailto:PRAStaff@fda.hhs.gov).

**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.

**Patent Term Restoration, Due Diligence Petitions, Filing, Format, and Content of Petitions—21 CFR Part 60 (OMB Control Number 0910-0233)—Extension**

FDA’s patent extension activities are conducted under the authority of the Drug Price Competition and Patent Term Restoration Act of 1984 (21 U.S.C. 355(j)) and the Generic Animal Drug and Patent Term Restoration Act of 1988 (35 U.S.C. 156). New human drug, animal drug, human biological, medical