

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare and Medicaid Services**

[Document Identifier: CMS-8003]

**Agency Information Collection Activities: Proposed Collection; Comment Request****AGENCY:** Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Type of Information Collection Request:** Extension of a currently approved collection; **Title of Information Collection:** Home and Community-Based Services Waiver Requests and Supporting Regulations in 42 CFR 440.180-.185, and 441.301-441.310; **Form No.:** CMS-8003 (OMB# 0938-0449); **Use:** Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost & utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements. The purpose of this request is to provide authority for the State to furnish such individuals with services in the home and community-based setting; **Frequency:** When a State requests a waiver or amendment to a waiver; **Affected Public:** State, Local or Tribal Government; **Number of Respondents:** 50; **Total Annual Responses:** 132; **Total Annual Hours:** 7,930.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: May 2, 2002.

**John P. Burke III,**

*Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, CMS Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.*

[FR Doc. 02-12241 Filed 5-15-02; 8:45 am]

**BILLING CODE 4120-03-P****DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 99N-4578]

**Agency Information Collection Activities; Announcement of OMB Approval; Requirements for States as Certification Agencies****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Requirements for States as Certification Agencies" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

**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:** In the **Federal Register** of February 6, 2002 (67 FR 5446), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0486. The approval expires on April 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at <http://www.fda.gov/ohrms/dockets>.

Dated: May 8, 2002.

**Margaret M. Dotzel,***Associate Commissioner for Policy.*

[FR Doc. 02-12172 Filed 5-15-02; 8:45 am]

**BILLING CODE 4160-01-S****DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 02N-0007]

**Agency Information Collection Activities; Submission for OMB Review; Comment Request; CGMP Regulations for Finished Pharmaceuticals****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the 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:** Submit written comments on the collection of information by June 17, 2002.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

**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:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

**CGMP Regulations for Finished Pharmaceuticals—21 CFR Parts 210 and 211 (OMB Control Number 0910-0139)—Extension**

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is adulterated if the methods used in, or

the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practices (CGMPs) to ensure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The CGMP recordkeeping requirements also serve preventive and remedial purposes and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain over-the-counter (OTC) drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that “for records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met.” To the extent this electronic option is used,

the burden of maintaining paper records should be substantially reduced, as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated with the batch, and provisions for a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

The specific recordkeeping requirements provided in table 1 of this document are as follows:

Section 211.34—Consultants advising on the manufacture, processing, packing, or holding of drug products must have sufficient education, training, and experience to advise on the subject for which they are retained. Records must be maintained stating the name, address, and qualifications of any consultants and the type of service they provide.

Section 211.67(c)—Records must be kept of maintenance, cleaning, sanitizing, and inspection as specified in §§ 211.180 and 211.182.

Section 211.68—Appropriate controls must be exercised over computer or related systems to assure that changes in master production and control records or other records are instituted only by authorized personnel.

Section 211.68(a)—Records must be maintained of calibration checks, inspections, and computer or related system programs for automatic, mechanical, and electronic equipment.

Section 211.68(b)—All appropriate controls must be exercised over all computers or related systems and control data systems to assure that changes in master production and controls records or other records are instituted only by authorized persons.

Section 211.72—Filters for liquid filtration used in the manufacture, processing, or packing of injectable drug products intended for human use must not release fibers into such products.

Section 211.80(d)—Each container or grouping of containers for components or drug product containers or closures must be identified with a distinctive code for each lot in each shipment received. This code must be used in recording the disposition of each lot.

Each lot must be appropriately identified as to its status.

Section 211.100(b)—Written production and process control procedures must be followed in the execution of the various production and process control functions and must be documented at the time of performance. Any deviation from the written procedures must be recorded and justified.

Section 211.105(b)—Major equipment must be identified by a distinctive identification number or code that must be recorded in the batch production record to show the specific equipment used in the manufacture of each batch of a drug product. In cases where only one of a particular type of equipment exists in a manufacturing facility, the name of the equipment may be used in lieu of a distinctive identification number or code.

Section 211.122(c)—Records must be maintained for each shipment received of each different labeling and packaging material indicating receipt, examination, or testing.

Section 211.130(e)—Inspection of packaging and labeling facilities must be made immediately before use to assure that all drug products have been removed from previous operations. Inspection must also be made to assure that packaging and labeling materials not suitable for subsequent operations have been removed. Results of inspection must be documented in the batch production records.

Section 211.132(c)—Certain retail packages of OTC drug products must bear a statement that is prominently placed so consumers are alerted to the specific tamper-evident feature of the package. The labeling statement is required to be so placed that it will be unaffected if the tamper-resistant feature of the package is breached or missing. If the tamper-evident feature chosen is one that uses an identifying characteristic, that characteristic is required to be referred to in the labeling statement.

Section 211.132(d)—A request for an exemption from packaging and labeling requirements by a manufacturer or packer is required to be submitted in the form of a citizen petition under 21 CFR 10.30.

Section 211.137—Requirements regarding product expiration dating and compliance with 21 CFR 201.17.

Section 211.160(a)—The establishment of any specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms, including any change in such specifications, standards, sampling plans, test procedures, or other

laboratory control mechanism, must be drafted by the appropriate organizational unit and reviewed and approved by the quality control unit. These requirements must be followed and documented at the time of performance. Any deviation from the written specifications, standards, sampling plans, test procedures, or other laboratory control mechanisms must be recorded and justified.

Section 211.165(e)—The accuracy, sensitivity, specificity, and reproducibility of test methods employed by a firm must be established and documented. Such validation and documentation may be accomplished in accordance with § 211.194(a)(2).

Section 211.166(c)—Specifies homeopathic drug product requirements.

Section 211.173—Animals used in testing components, in-process materials, or drug products for compliance with established specifications must be maintained and controlled in a manner that assures their suitability for their intended use. They must be identified, and adequate records must be maintained showing the history of their use.

Section 211.180(e)—Written records required by this part must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures. Written procedures must be established and followed for such evaluations and must include provisions for a representative number of batches, whether approved or unapproved or rejected, and a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

Section 211.180(f)—Procedures must be established to assure that the responsible officials of the firm, if they are not personally involved in or immediately aware of such actions, are notified in writing of any investigations, conducted under § 211.198, § 211.204, or § 211.208, any recalls, reports of inspectional observations issued, or any regulatory actions relating to good manufacturing practices brought by FDA.

Section 211.182—Specifically explains equipment cleaning and the use log.

Section 211.184—Specifies component, drug product container, closure, and labeling records.

Section 211.186—Specifies master production and control records.

Section 211.188—Specifies batch production and control records.

Section 211.192—Specifies the information that must be maintained on the investigation of discrepancies found in the review of all drug product production and control records by the quality control staff.

Section 211.194—Explanation and description of laboratory records that must be retained.

Section 211.196—Specifies the information that must be included in records on the distribution of the drug.

Section 211.198—Specifies and describes the handling of all complaint files received by the applicant.

Section 211.204—Specifies that records be maintained of returned and salvaged drug product and describes the procedures involved.

Written procedures, referred to here as standard operating procedures (SOPs), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major information collection impact of SOPs results from their creation. Thereafter, SOPs need to be periodically updated. A combined estimate is provided in table 1 of this document for routine maintenance of SOPs. The 25 SOP provisions under part 211 in the combined maintenance estimate include:

(1) Section 211.22(d)—Responsibilities and procedures of the quality control unit;

(2) Section 211.56(b)—Sanitation procedures;

(3) Section 211.56(c)—Use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents;

(4) Section 211.67(b)—Cleaning and maintenance of equipment;

(5) Section 211.68(a)—Proper performance of automatic, mechanical, and electronic equipment;

(6) Section 211.80(a)—Receipt, identification, storage, handling, sampling, testing, approval, or rejection of components and drug product containers or closures;

(7) Section 211.94(d)—Standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures;

(8) Section 211.100(a)—Production and process control;

(9) Section 211.110(a)—Sampling and testing of in-process materials and drug products;

(10) Section 211.113(a)—Prevention of objectionable microorganisms in drug products not required to be sterile;

(11) Section 211.113(b)—Prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process;

(12) Section 211.115(a)—System for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics;

(13) Section 211.122(a)—Receipt, identification, storage, handling, sampling, examination and/or testing of labeling and packaging materials;

(14) Section 211.125(f)—Control procedures for the issuance of labeling;

(15) Section 211.130—Packaging and label operations, prevention of mix-up and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch;

(16) Section 211.142—Warehousing;

(17) Section 211.150—Distribution of drug products;

(18) Section 211.160—Laboratory controls;

(19) Section 211.165(c)—Testing and release for distribution;

(20) Section 211.166(a)—Stability testing;

(21) Section 211.167—Special testing requirements;

(22) Section 211.180(f)—Notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice;

(23) Section 211.198(a)—Written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences;

(24) Section 211.204—Holding, testing, and reprocessing of returned drug products; and

(25) Section 211.208—Drug product salvaging.

Although most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and startup firms that will need to create SOPs. As provided in table 1 of this document, FDA is assuming that approximately 100 firms will have to create up to 25 SOPs for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOPs for a total of 50,000 hours.

The burden estimates for the recordkeeping requirements in table 1 of this document are based on FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements, and data provided to FDA to prepare an economic analysis of the potential economic impact of the May 3, 1996, proposed rule entitled "Current Good Manufacturing Practice: Proposed

Amendment of Certain Requirements for Finished Pharmaceuticals" (61 FR 20104). Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The May 3, 1996, proposed rule revising part 211 CGMP requirements would require additional SOPs. Cost estimates for those additional SOPs were included in the proposed rule, but

are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal.

In the **Federal Register** of February 7, 2002 (67 FR 5825), the agency requested comments on the proposed collection of information. There were no comments received.

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

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

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See previous list of 25 SOPs)	4,184	1	4,184	25	104,600
New startup SOPs	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	20,920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.186	4,184	10	41,840	2	83,680
211.188	4,184	25	104,600	2	209,200
211.192	4,184	2	8,368	1	8,368
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

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

Dated: May 8, 2002.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 02-12263 Filed 5-15-02; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 02N-0209]

#### Request for Comment on First Amendment Issues

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is seeking public comment to ensure that its regulations, guidances, policies, and practices

continue to comply with the governing First Amendment case law. Recent case law has emphasized the need for not imposing unnecessary restrictions on speech. FDA believes this action will help the agency continue to protect the public health, while giving full recognition to evolving judicial decisions.

**DATES:** Submit written or electronic comments on this notice by July 30, 2002. Responses to those comments must be submitted by September 13, 2002.