

Dated: March 12, 2014.

**Peter Lurie,**

*Associate Commissioner for Policy and Planning.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2010-N-0373]

#### **Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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

**SUPPLEMENTARY INFORMATION:** On December 30, 2013, the Agency submitted a proposed collection of information entitled "Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition" 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 0910-0541. The approval expires on February 28, 2017. A copy of the supporting statement for this information collection is available on the Internet at <http://www.reginfo.gov/public/do/PRAMain>.

Dated: March 12, 2014.

**Peter Lurie,**

*Acting Associate Commissioner for Policy and Planning.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2014-D-0223]

#### **Humanitarian Device Exemption: Questions and Answers; Draft Guidance for Humanitarian Device Exemption Holders, Institutional Review Boards, Clinical Investigators, and Food and Drug Administration Staff; Availability**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Humanitarian Device Exemption (HDE): Questions and Answers." This draft guidance answers commonly asked questions about humanitarian use devices (HUDs) and HDE applications. This guidance document reflects changes to the HDE program as a result of the Food and Drug Administration Safety and Innovation Act (FDASIA). This draft guidance is not final nor is it in effect at this time.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by June 16, 2014.

**ADDRESSES:** Submit written requests for single copies of the draft guidance document entitled "Humanitarian Device Exemption (HDE): Questions and Answers" to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993-0002 or the Office of Communication, Outreach and Development (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301-847-

8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

#### **FOR FURTHER INFORMATION CONTACT:**

Nicole Wolanski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1650, Silver Spring, MD 20993-0002, 301-796-6570; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852-1448, 301-827-6210.

#### **SUPPLEMENTARY INFORMATION**

##### **I. Background**

This draft guidance answers commonly asked questions about HUDs and HDE applications authorized under section 520(m) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(m)). Section 613 of FDASIA (Pub. L. 112-144), signed into law on July 9, 2012, amended section 520(m) of the FD&C Act. This draft guidance document reflects the changes in the HDE program as a result of FDASIA. Upon issuance as a final guidance document, this guidance will replace the existing HDE guidance entitled "Guidance for Humanitarian Device Exemption Holders, Institutional Review Boards, Clinical Investigators, and Food and Drug Administration Staff—Humanitarian Device Exemption Regulation: Questions and Answers," issued on July 8, 2010, which was developed and issued prior to the enactment of FDASIA.

HUDs approved under an HDE cannot be sold for an amount that exceeds the costs of research and development, fabrication, and distribution of the device (i.e., for profit), except in certain circumstances. FDASIA expands the types of HDE-approved HUDs that are eligible to be sold for profit, subject to restrictions in section 520(m)(6) of the FD&C Act.

FDASIA also amends the definition of the annual distribution number (ADN). Under section 520(m)(6) of the FD&C Act, if FDA makes a determination that a HUD meets certain conditions, the HUD is permitted to be sold for profit after receiving HDE approval as long as the number of devices distributed in any