



# **FY 2017**

***PERFORMANCE REPORT  
TO CONGRESS***

*for the*

***Animal Drug User Fee Act***



## ***Commissioner's Report***

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I am pleased to present to Congress the Food and Drug Administration's (FDA or the Agency) Fiscal Year (FY) 2017 Performance Report to Congress for the Animal Drug User Fee Act (ADUFA). On June 13, 2013, the second reauthorization of ADUFA was signed into law. This reauthorization of ADUFA for another 5-year period (FY 2014 through FY 2018) is referred to as ADUFA III. This report marks the fourth year of ADUFA III.

This report details FDA's preliminary performance for FY 2017 and finalizes performance results for FY 2016. It is my pleasure to report that FDA exceeded all performance goals for FY 2016. The Agency also met review-time goals for all FY 2017 cohort submissions reviewed or due for review by September 30, 2017. With some reviews still pending, FDA has the potential to exceed all performance goals for FY 2017.

FDA is committed to improving the efficiency, quality, and predictability of the new animal drug review process. We are dedicated to exploring new approaches and technologies that offer high-quality, cost-effective improvements in the Agency's review of new animal drug applications and submissions. Under the leadership of the President and in collaboration with Congress and industry, FDA looks forward to continued success in the animal drug review process made achievable by ADUFA.

Scott Gottlieb, M.D.  
Commissioner of Food and Drugs

## ***Acronyms***

**ADAA** – Animal Drug Availability Act  
**ADUFA** – Animal Drug User Fee Act  
**CAWG** – Conditional Approval Working Group  
**CBE-30** – Changes Being Effected in 30 Days  
**CFR** – Code of Federal Regulations  
**CMC** – Chemistry Manufacturing and Controls  
**CVM** – Center for Veterinary Medicine  
**ERA** – End-Review Amendment  
**FDA** – Food and Drug Administration  
**FD&C Act** – Federal Food, Drug, and Cosmetic Act  
**FY** – Fiscal Year (October 1 to September 30)  
**HHS** – U.S. Department of Health and Human Services  
**INAD** – Investigational New Animal Drug  
**MUMS** – Minor Use or Minor Species  
**NADA** – New Animal Drug Application  
**ONADE** – Office of New Animal Drug Evaluation  
**QLS** – Qualifying Labeling Supplements

## ***Executive Summary***

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On June 13, 2013, the second reauthorization of ADUFA, referred to as ADUFA III, was signed into law for an additional 5 years (through FY 2018). ADUFA III included a comprehensive set of FDA review performance goals and commitments designed to improve the timeliness and predictability of the review of new animal drug applications (NADAs), supplemental NADAs, and investigational new animal drug (INAD) submissions.

More information on the history of ADUFA is available on the FDA website.<sup>1</sup>

### **Information Included in this Report**

This report summarizes FDA's performance in meeting ADUFA goals and commitments for FY 2016 and FY 2017. Specifically, it updates and finalizes performance data initially reported in the FY 2016 ADUFA performance report and presents preliminary data on FDA's progress in meeting FY 2017 review goals, implementation activities, and accomplishments.

### **Review Performance**

FDA continues to meet or exceed expectations in the implementation and completion of the review performance goals established under ADUFA III. Key activities and accomplishments during FY 2017 included the following:

- FDA completed review on all 821 FY 2016 submissions. FDA exceeded all ADUFA performance goals for the FY 2016 cohort.
- Preliminary performance results indicate that FDA met review-time goals for almost all (661 of 677) FY 2017 cohort submissions reviewed and acted on as of September 30, 2017. With 202 additional reviews pending that may yet be completed on time, FDA has the potential to exceed all seven ADUFA performance goals for the FY 2017 cohort.

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<sup>1</sup> [www.fda.gov/forindustry/userfees/animaldruguserfeeactadufa/default.htm](http://www.fda.gov/forindustry/userfees/animaldruguserfeeactadufa/default.htm)

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## Introduction

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The Animal Drug User Fee Act (ADUFA) requires the Secretary of the Department of Health and Human Services (HHS) to submit two annual reports to Congress for each fiscal year fees are collected: (1) a performance report and (2) a financial report. This report is the Food and Drug Administration's (FDA or the Agency) fourth annual performance report to Congress under ADUFA III. Under ADUFA III, FDA agreed to meet performance goals for certain submissions over 5 years (FY 2014 through FY 2018). Further details on FDA's commitments under ADUFA III can be found in the ADUFA III Performance Goals and Procedures document on the FDA website.<sup>2</sup> By providing FDA with supplemental funding for the review of new animal drug submissions, ADUFA is designed to provide greater predictability in review times for the animal drug industry and to accelerate availability of safe and effective new products. The guidelines and definitions below and in Appendix A-1 apply to the information provided in the FY 2017 report.

### Information Presented in This Report

In any given year, FDA performance includes reviews of applications and submissions pending from previous fiscal years along with submissions received during the current fiscal year. This report provides FDA's final performance for the FY 2016 cohort and presents FDA's preliminary performance with respect to performance goals for the FY 2017 cohort submissions that were received early enough to be reviewed, or due for review, by September 30, 2017.

The following information refers to FDA performance presented in this report.

- The term *submission* is used to refer to new animal drug applications (NADAs) and reactivations, supplemental NADAs and reactivations, investigational new animal drug (INAD) studies, and INAD Protocols when referencing the fiscal year cohort.
- *Review-time goal* is the targeted time period, identified in number of calendar days, within which individual submissions are to be acted on by FDA. ADUFA review-time goals range from 50 days to 180 days. An on-time review indicates that FDA completed action within the number of calendar days specified by the review-time goal.
- *Percent on time* refers to the percentage of reviews where FDA met a review-time goal for a given type of submission. FDA's percent on time for a given type of submission is used to determine whether FDA met or exceeded the ADUFA III performance goals.
- *Performance goal* refers to the percentage of total submissions, agreed to under ADUFA III, for which FDA is expected to meet the review-time goal for a given type of submission. ADUFA III performance goals are established for FDA to meet the review-time goals 90 percent of the time for the defined fiscal year cohort.

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<sup>2</sup> <https://www.fda.gov/downloads/ForIndustry/UserFees/AnimalDrugUserFeeActADUFA/UCM343226.pdf>

- The performance statistics in this report are based on submissions received during a fiscal year, known as a receipt cohort. This methodology calculates performance statistics for submissions according to the fiscal year FDA received them, regardless of the year in which FDA ultimately acted on or approved the submissions. A result of this approach is that the statistics shown for a particular year may change from one annual report to the next because, as more submissions are completed, the statistics for the year of receipt are adjusted to reflect the new completions. Therefore, until all submissions in a cohort are acted on or have passed the due date, whichever comes first, only a preliminary performance assessment can be provided for that fiscal year cohort.
- For submission types with a longer review-time goal—for example, 180 days—review performance data are usually limited at the time this report is prepared. For submission types with a shorter review-time goal—for example, 50 days—review performance data for submissions received early in the fiscal year are available at the time the report is prepared and thus the report may provide an early indicator of review performance.
- Performance goal tables indicate the total number of submissions filed as well as whether the submission was reviewed on time, was overdue, or is still pending and not past its due date. The total number of review submissions when summed together equals the total number filed.
- The workload counts presented in this report for FY 2017 include all submissions received in the last month of FY 2017 as filed (e.g., NADA) or submitted (e.g., INAD). FDA makes a filing decision within 30 days of receiving an original application, or a proceed-to-review decision within 60 days of receiving a submission. For ADUFA review times, FDA calculates from the original receipt of the application or submission.
- Minor Use or Minor Species (MUMS) conditional approvals are not counted as NADAs. Therefore, review performance on them is not presented in this report. The goal of MUMS is to encourage development of products for treatment of minor species or for treatment of animal diseases and conditions of major species that occur infrequently or in limited geographic areas. Further details on MUMS can be found on the FDA website at: [www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/MinorUseMinorSpecies](http://www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/MinorUseMinorSpecies)
- Submissions that FDA identified as refused to file or refused to review, and reviews that were stopped at the request of the sponsor, are not included in the statistics used to measure performance. These submissions are noted, however, in the relevant workload narratives and footnotes for performance goals.
- When determining performance, FDA-calculated percentages are rounded to the nearest whole number, up to 99 percent. Percentages above 99 percent, but below 100 percent, are rounded down to 99 percent.

### **File Types Included in This Report**

- **NADA** – An NADA is a new animal drug application including all amendments and supplements. This report presents original applications and reactivations, administrative applications, and supplemental applications and reactivations as separate goals.
- **INAD** – Under an INAD, sponsors may submit data intended to support an application for new animal drug approval. This report presents studies and protocols.

**Source:**

NADA - 21 CFR 514.3

[www.ecfr.gov/cgi-bin/text-idx?SID=181eddb42cc61a7f590432800f56a462&node=se21.6.514\\_13&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=181eddb42cc61a7f590432800f56a462&node=se21.6.514_13&rgn=div8)

INAD -

[www.fda.gov/animalveterinary/guidancecomplianceenforcement/guidanceforindustry/ucm123818.htm](http://www.fda.gov/animalveterinary/guidancecomplianceenforcement/guidanceforindustry/ucm123818.htm)

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## ADUFA Review Workload

### Review Workload: FY 2012 to FY 2017

In the table below, preliminary review workload numbers from FY 2017 are compared to the previous 5-year averages for all ADUFA application and submission types filed. The individual years that are included in the 5-year average can also be referenced below. There are no performance goals associated with workload, but the variations in workload over time can provide context for review performance. As of October 1, 2014 (the beginning of FY 2015), the Agency agreed to discontinue end-review amendment (ERAs) procedures and replace them with a shorter review time process for sponsors providing electronic NADA and INAD submissions. The shortened review submissions are not a subcategory, but are now included in the overall submission numbers. The FY 2012 to FY 2016 averages include ERAs, where applicable, in order to make an accurate comparison of the change in workload.

**Review Workload for Applications and Submissions**

Application/ Submission Type	FY 12	FY 13	FY 14	FY 15	FY 16*	FY 17†	FY 12 to FY 16 5-Year Average	FY 17 Compared to 5-Year Average
Original NADAs and Reactivations	2	0	3	3	15	15	5	+ 200%
ERAs for Original NADAs and Reactivations	0	0	0	--	--	--		
Administrative NADAs and Reactivations	20	9	21	16	18	8	17	- 53%
Non-manufacturing Supplemental NADAs and Reactivations	5	4	9	6	0	2	5	- 60%
ERAs for Non-manufacturing Supplemental NADAs and Reactivations	0	2	0	--	--	--		
Manufacturing Supplemental NADAs and Reactivations	294	281	340	327	324	383	313	+ 22%
Qualifying Labeling Supplements‡	--	--	--	3	6	6	--	--
INAD Studies	236	198	235	147	181	182	217	- 16%
ERAs for INAD Studies	19	22	45	---	---	--		
INAD Study Protocols	122	118	140	248	277	283	222	+ 27%
ERAs for INAD Study Protocols	76	55	75	--	--	--		

\* FY 2016 numbers were changed to reflect updates to data presented in the FY 2016 ADUFA performance report.

† FY 2017 numbers are preliminary and will be updated in the FY 2018 ADUFA performance report.

‡ Qualifying Labeling Supplements were not an option under ADUFA II and the first year of ADUFA III.

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## ***FY 2016 and FY 2017 ADUFA Performance***

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The tables that follow present FDA's review performance for the FY 2016 and FY 2017 ADUFA cohort submissions.

### **Final FY 2016 Performance**

FDA exceeded the 90 percent performance level for all of the review performance goals for submission types for which submissions were received in FY 2016 (six of six). FDA received no submissions in FY 2016 for one of the submission types (non-manufacturing supplemental NADAs and reactivations). Across all submission types, FDA met the performance goal in 816 of 821 submissions.

<b>Application/ Submission Type</b>	<b>Filed</b>	<b>Goal: Act on 90 Percent Within</b>	<b>On Time</b>	<b>Overdue</b>	<b>Percent on Time</b>
Original NADAs and Reactivations	15	180 days	14	1	93%
Administrative NADAs	18	60 days	18	0	100%
Non-manufacturing Supplemental NADAs and Reactivations	0	180 days	0	0	--
Manufacturing Supplemental NADAs and Reactivations	324*	120 days	322	2	99%
Qualifying Labeling Supplements	6	60 days	6	0	100%
INAD Studies	181†	180 days	181	0	100%
INAD Study Protocols	277‡	50 days	275	2	99%

\* A total of 335 submissions were received, but 11 received a pending supplement withdrawn by request of sponsor.

† A total of 193 submissions were received, but 6 received a file no reply with memo, 4 received a refuse to review, and 2 received a stop review.

‡ A total of 285 submissions were received, but 2 received a file no reply with memo, 3 received a refused to review, and 3 received a stop review.

## Preliminary FY 2017 Performance

As of September 30, 2017, performance data were available for 677 of 879 submissions filed in FY 2017. FDA is currently exceeding the review-time goal for all seven performance goals. Overall, FDA met the performance goal in 661 of 677 submissions. With 202 submissions pending within goal, FDA has the potential to meet or exceed the 90 percent performance level for all seven review performance goals.

Application/ Submission Type	Filed	Goal: Act on 90 Percent Within	On Time	Overdue	Percent on Time	Pending Within Goal	Highest Possible Percent on Time
Original NADAs and Reactivations	15	180 days	1	0	100%	14	100%
Administrative NADAs	8	60 days	7	0	100%	1	100%
Non-manufacturing Supplemental NADAs and Reactivations	2 <sup>†</sup>	180 days	2	0	100%	0	100%
Manufacturing Supplemental NADAs and Reactivations	383 <sup>‡</sup>	120 days	292	8	97%	83	98%
Qualifying Labeling Supplements	6	60 days	5	0	100%	1	100%
INAD Studies	182 <sup>§</sup>	180 days	93	3	97%	86	98%
INAD Study Protocols	283 <sup>^</sup>	50 days	261	5	98%	17	98%

<sup>†</sup> A total of three supplements were received, but one received a refused supplement review.

<sup>‡</sup> A total of 394 submissions were received, but 9 received a pending supplement withdrawn by request of sponsor and 2 received a refuse to review.

<sup>§</sup> A total of 189 submissions were received, but 6 received a refuse to review and 1 received a stop review.

<sup>^</sup> A total of 295 submissions were received, but 1 received a refuse to accept, 1 received a file no reply with memo, 9 received a refuse to review, and 1 received a stop review.

## ***FY 2017 Process Improvement***

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Under ADUFA III, FDA committed to a variety of process improvements. FDA agreed to enhance and further improve the review process via the following changes:

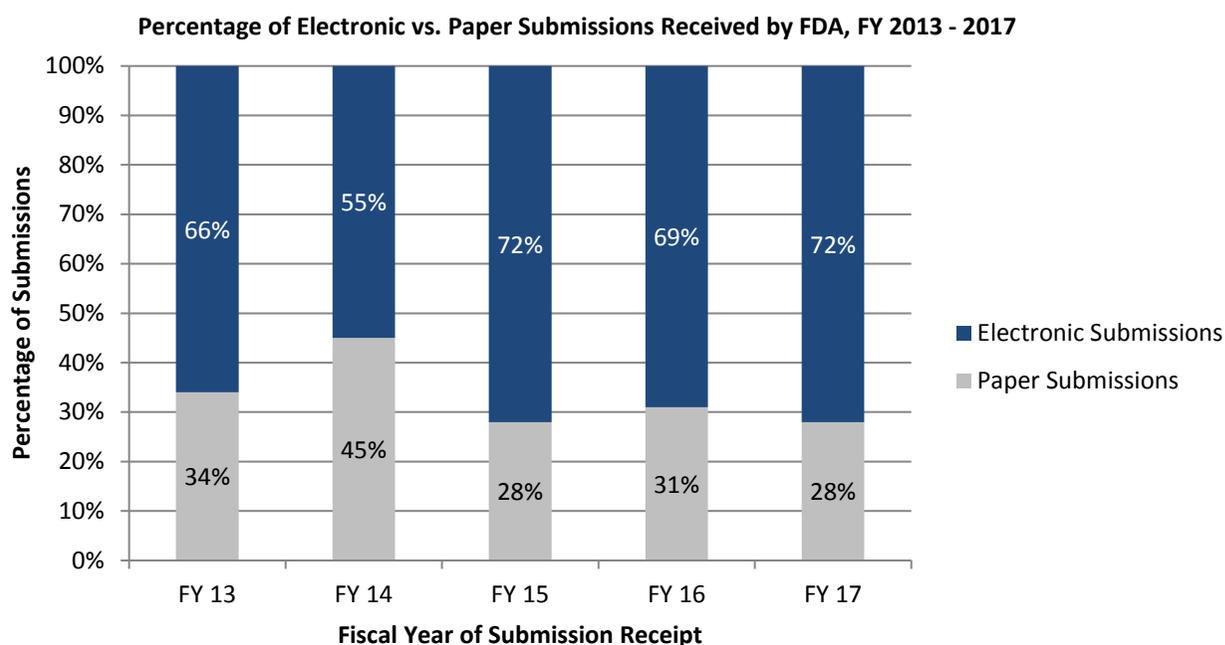
- **ERA.** The Agency agreed to discontinue end-review amendment procedures on October 1, 2014 (the beginning of FY 2015), and replace them with a shorter review time process for sponsors providing electronic NADA and INAD submissions.
- **Timely Foreign Pre-Approval Inspections (PAIs).** Under ADUFA III, to improve the timeliness and predictability of foreign PAIs, the regulated industry may voluntarily submit, at the beginning of the calendar year, a list of foreign manufacturing facilities that are specified in a NADA, supplemental NADA, or INAD submission that may be subject to foreign PAIs for the following fiscal year.
- **Labeling Supplements.** The Agency agreed to review and act on 90 percent of qualifying labeling supplements (QLS) within 60 days after the submission date. QLS are those submitted through the use of the eSubmitter electronic submission tool, for which the sponsor provides and certifies a complete list of label changes made in the application and that the Center for Veterinary Medicine (CVM) can determine upon initial review do not decrease the safety of drug use.
- **Multiple Data Submissions to the Chemistry Manufacturing and Controls (CMC) Technical Section.** The Agency agreed to develop guidance for a two-phased CMC technical section submission and review process under the INAD file by the end of FY 2014.
- **Comparability Protocols.** The Agency agreed to review and act on 90 percent of INAD submissions consisting of protocols without substantial data within 50 days after the submission date of the protocol. The goal is to get Agency concurrence on what data is necessary to support manufacturing changes and enable the sponsor to make manufacturing changes earlier without prior supplemental approval.
- **Manufacturing Supplemental Animal Drug Applications.** The Agency agreed to permit prior approval manufacturing supplements to be resubmitted as “Supplement-Changes Being Effected in 30 Days” (CBE-30) as described in 21 CFR 514.8(b)(3).
- **Supporting Information for Presubmission Conferences and INAD Protocols without Data Submissions.** The Agency agreed to improve the new animal drug development process to allow data which uniquely describes the general attributes of the new animal drug to be submitted earlier in the process to support more effective and efficient pre-submission conference and INAD protocol review processes.
- **Dosage Characterization.** The Agency clarified that dosage characterization is part of the effectiveness technical section of the INAD file. If information about dosage is

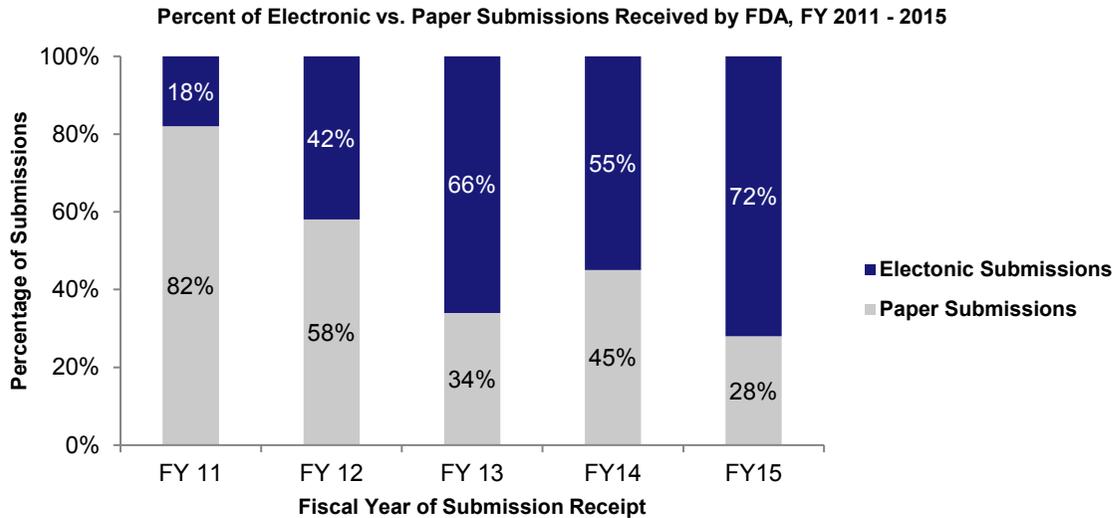
integral to the review of a protocol, this information will be provided early to inform the review.

- **Animal Drug Availability Act (ADAA) Combinations.** The Agency agreed to explore the feasibility of pursuing statutory revisions that may modify the current requirement that the use of multiple new animal drugs in the same medicated feed be subject to an approved application.
- **Conditional Approval.** The Agency agreed to explore, in concert with industry, the feasibility of pursuing statutory revisions, consistent with the Agency's mission to protect and promote the public health, that may expand the use of conditional approvals to other appropriate categories of NADAs and develop recommendations by September 30, 2015.
- **Microbial Food Safety Hazard Characterization Submissions.** The Agency agreed to review and act on 90 percent of microbial food safety hazard characterization submissions within 100 days after the submission date. These submissions are part of the INAD studies submissions.

## Major Accomplishments towards Process Improvements for FY 2017

- **Foreign Pre-approval Inspections.** In an effort to improve communications, timeliness, and predictability of foreign pre-approval inspections, sponsors can voluntarily submit a list of foreign manufacturing facilities anticipated to be included in the sponsor's NADAs for the following year. Seven sponsors voluntarily submitted lists of foreign manufacturing facilities anticipated to be included in NADAs in FY 2017. FDA completed 11 foreign pre-approval inspection assignments in FY 2017, with an average time of 85 days to complete all aspects of an inspection (e.g., preparation, communication with the foreign jurisdiction, and actual time in the facility). In comparison, FDA completed 8 foreign pre-approval inspection assignments in FY 2016 with an average time of 86 days to complete all aspects of an inspection.
- **Electronic Submission and Review.** Since the release of CVM's eSubmitter tool in FY 2011, which made it possible for industry to provide their submissions electronically, there has been an overall decline in paper submissions. CVM received approximately 72 percent of its regulatory submissions electronically in FY 2017 (compared to 18 percent in FY 2011 when electronic submission was first implemented).





CVM’s Electronic Document Submission and Review System was updated to support the ADUFA III performance goals. Specifically, eSubmitter templates were updated to accommodate the submission of manufacturing CBE-30 supplements following an incomplete prior approval manufacturing supplement, to permit the submission of comparability protocols under an INAD, to allow for the submission of two-phased CMC technical sections, to allow for the identification of Administrative NADAs, and to allow CVM to offer shortened review upon resubmission of Non-Administrative NADAs and B1 Supplements, Data Submissions, and Protocols.

- **CMC Process Enhancements**

- **Permit a two-phase data submissions process to the CMC Technical Section:** Submission of CMC information as a two-phased data submission is voluntary. In FY 2017, CVM received one first-phase submission according to the two-phased data submission process. This new process permits the submission and review of early completed CMC information that may increase the timely completion of the entire CMC Technical Section.
- **Permit comparability protocols to be submitted as protocols without substantial data in an INAD file:** Submission of comparability protocols as protocols without substantial data in an INAD file is voluntary. In FY 2017, CVM received 16 INAD comparability protocols—the same as the number received in FY 2016. This new process reduces the review time for most comparability protocols from 120 to 50 days.
- **Permit prior approval manufacturing supplements to be resubmitted as CBE-30s:** In FY 2017, 7 incomplete prior-approval manufacturing supplements were permitted to be resubmitted as CBE-30s. The total number of incomplete prior-approval manufacturing supplements was 31. This new process may allow for earlier distribution of animal drugs made with CMC changes.

- **Supporting Information for Presubmission Conferences and INAD Protocols Without Data Submissions.** Early information is a collaborative process which is now used by sponsors and Office of New Animal Drug Evaluation (ONADE) reviewers to

solve problems or brainstorm pathways forward in the drug development process. In FY 2017, CVM received 13 early information submissions.

- **ADAA Combinations.** FDA met the goal of exploring the feasibility of pursuing statutory revisions that may modify the current requirement that the use of multiple new animal drugs in the same medicated feed be subject to an approved application. CVM provided written recommendations for consideration through the *Federal Register* on May 2, 2016.
- **Conditional Approval.** FDA is continuing work on the goal of exploring the feasibility of statutory revisions that may expand the use of conditional approvals to other appropriate categories of new animal drug applications beyond the authority provided in the Minor Use and Minor Species Animal Health Act of 2004. CVM formed a Conditional Approval Working Group (CAWG), which conducted preliminary activities to evaluate the feasibility, practicality, criteria, and potential requirements for expanding the use of conditional approval to certain major uses in major species. FDA is committed to continuing to explore, through a public and transparent process, the expanded use of conditional approval consistent with the Agency's mission to protect and promote the public health.

## Appendix

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### Appendix A: Definitions of Key Terms

**Application or Supplement Withdrawn.** A sponsor can notify FDA that they no longer desire to seek approval of a submitted, but pending, application or supplement. This is distinct from the Stop Review final action, because the decision is made after the NADA or supplemental application for a product is received by FDA instead of during the INAD period prior to approval. A sponsor may voluntarily request that FDA withdraw approval of an application if the sponsor represents it is no longer marketing the product. FDA also may take action to compel withdrawal of an approved application based on safety or effectiveness or certain other grounds after providing notice and an opportunity for hearing to the sponsor.

**File No Reply with Memo.** When FDA determines that a submission is filed without a reply to the sponsor but documentation is needed, FDA includes a review document (for example, a memorandum) in the administrative file to summarize what was included in the submission.

**Refuse to Accept.** As stated in section 740(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), a NADA, supplemental NADA, or INAD submission that is submitted by a person subject to fees is considered to be incomplete and cannot be accepted for review until all fees owed by such person have been paid.

**Refuse to File Applications.** Within 30 days of submission, FDA shall “refuse to file” a NADA, supplemental NADA, or reactivation determined to be inadequate or incomplete on its face or otherwise of unacceptable quality for review upon initial inspection per 21 CFR 514.110. Thus, FDA will refuse to file an application containing a large number or certain types of errors, or flaws in the development plan, that are sufficient to cause the quality of the entire submission to be questioned to such an extent that FDA cannot reasonably review it.

**Refuse to Review Submissions.** Within 60 days of submission, FDA will refuse to review an INAD submission determined to be insufficient on its face or otherwise of unacceptable quality upon initial inspection using criteria and procedures based on the provisions in 21 CFR 514.110. A decision to refuse to review a submission or to refuse to file an application will result in the application or submission being excluded from the cohort upon which the relevant user fee goal is based. FDA records the numbers and types of these exclusions and has included these in this annual performance report.

**Review and Act on Applications and Submissions.** The term “review and act on” is understood to mean the issuance of a complete action letter after the complete review of an NADA, supplemental NADA, or INAD submission that either (1) approves an NADA or supplemental NADA or notifies a sponsor that an INAD submission is complete, or (2) sets forth in detail all of the specific deficiencies in

such NADA, supplemental NADA, or INAD submission and, where appropriate, the actions necessary to place such an NADA, supplemental NADA, or INAD submission in condition for approval.

**Stop Review.** A sponsor may request that FDA stop the review of a particular INAD submission while the submission is under review. Any resubmission of that information is treated as a new submission, independent of previous work or data.



**Department of Health and Human Services  
Food and Drug Administration**

This report was prepared by FDA's Office of Planning in collaboration with the Center for Veterinary Medicine (CVM). For information on obtaining additional copies contact:

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