



# FY 2021

## ***PERFORMANCE REPORT TO CONGRESS***

*for the*

## ***Medical Device User Fee Amendments***

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

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I am pleased to present the U.S. Food and Drug Administration's (FDA's or the Agency's) fiscal year (FY) 2021 Performance Report to Congress for the Medical Device User Fee Amendments (MDUFA). The enactment of the fourth authorization of MDUFA in 2017 (MDUFA IV) reauthorized medical device user fees for 5 additional years (FY 2018 through FY 2022). This is the 19<sup>th</sup> report on medical device user fee review performance; FY 2021 is the fourth year of MDUFA IV.

Reauthorization of the medical device user fee program has helped to expedite the availability of innovative new products in the market by boosting the Agency's medical devices regulatory review capacity through hiring new staff and providing other resources. MDUFA IV represents a commitment between the U.S. medical device industry and FDA to increase the efficiency of regulatory processes, reducing the total time it takes to make decisions on safe and effective medical devices.

Preliminary performance data through September 30, 2021, including completed and pending reviews, indicate that FDA has met (or has the potential to meet) 13 of the 16 FY 2020 review goals and 9 of the 13 FY 2021 review goals for which FDA had a sufficient MDUFA cohort to calculate performance. FDA also completed, on time, all 8 performance enhancement goals due in FY 2021. However, FDA's response to the unprecedented COVID-19 public health emergency has impacted FDA's MDUFA performance, resulting in three missed FY 2020 review goals and four missed FY 2021 review goals.

We believe the actions that FDA has taken under MDUFA IV have had a positive impact on the device review process, such as the addition of more rigorous shared outcome goals, new goals for Pre-Submissions and De Novo classification requests, and a number of new performance enhancement goals. These completed actions demonstrate FDA's continued commitment to strengthening its medical device review programs, providing predictable device review processes, and increasing the efficiency with which medical devices are developed and made available to patients.

Janet Woodcock, M.D.  
Acting Commissioner of Food and Drugs

## ***Acronyms***

**AB** – Accrediting Bodies

**ASCA** – Accreditation Scheme for Conformity Assessment

**BLA** – Biologics License Application

**CBER** – Center for Biologics Evaluation and Research

**CDRH** – Center for Devices and Radiological Health

**CLIA** – Clinical Laboratory Improvement Amendments

**EUA** – Emergency Authorization Equipment

**FDA** – U.S. Food and Drug Administration

**FDARA** – FDA Reauthorization Act of 2017

**FTE** – Full Time Equivalent

**FY** – Fiscal Year (October 1 to September 30)

**GMP** – Good Manufacturing Practice

**IDE** – Investigational Device Exemption

**IVD** – In vitro Diagnostics

**MDUFA** – Medical Device User Fee Amendments

**NSE** – Not Substantially Equivalent

**OC** – Office of the Commissioner

**OHTs** – Offices of Health Technology

**OIR** – Office of In Vitro Diagnostics and Radiological Health

**OP** – Office of Policy

**OPEQ** – Office of Product Evaluation and Quality

**OST** – Office of Strategic Partnership and Technology Innovation

**ORA** – Office of Regulatory Affairs

**PDP** – Product Development Protocol

**PMA** – Premarket Approval Application

**PPE** – Personal Protective Equipment

**RTA** – Refuse to Accept

**SE** – Substantially Equivalent

**SI** – Substantive Interaction

**TL** – Test Laboratories

**TTD** – Total Time to Decision



## **Executive Summary**

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On August 18, 2017, the President signed into law the FDA Reauthorization Act of 2017 (FDARA) (Public Law 115-52). FDARA amended the Federal Food, Drug, and Cosmetic Act to revise and extend the user fee programs for human drugs, biologics, generic drugs, medical devices, and biosimilar biological products. FDARA reauthorized and expanded the Medical Device User Fee Amendments (MDUFA) for 5 additional years (i.e., fiscal year (FY) 2018 through FY 2022) (referred to as “MDUFA IV”).

This report presents preliminary data on the success of the U.S. Food and Drug Administration (FDA) in meeting FY 2021 MDUFA IV goals and updated data on FDA’s success in meeting FY 2020 and FY 2019 MDUFA IV goals.

This report also addresses additional performance data (including for MDUFA IV performance enhancement goals) that were required by FDARA and that FDA was directed to provide in connection with the Consolidated Appropriations Act, 2017 (Public Law 115-31).

All data presented in this report are as of September 30, 2021.

## **Preliminary FY 2021 Performance**

### **Review Goals**

FDA received enough FY 2021 submissions to calculate performance for 13 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 13 review goals, one review goal was sufficiently complete to determine the outcome and was met, four review goals were sufficiently complete to determine the outcome and were missed, and eight review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts, including the two shared outcome goals, are not yet sufficiently complete to determine the outcome; includes two shared outcome goals). For the remaining 12 (of the 25) review goals, there are no reportable performance metrics because there was an insufficient number of received submissions for the respective MDUFA cohort or there were no submissions.

### **Performance Enhancement Goals**

FDA had eight performance enhancement goals with required completion dates in FY 2021. As of September 30, 2021, FDA had completed all 8 of these goals, all of which were completed on time.

## **Updated FY 2020 Performance**

### **Review Goals**

FDA received enough FY 2020 submissions to calculate performance for 16 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 16 review goals, six review goals were sufficiently complete to determine the outcome and were met, three review goals were sufficiently complete to determine the outcome and were missed, and seven review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts, including the two shared outcome goals, are not yet sufficiently complete to determine the outcome). For the remaining 9 (of the 25) review goals, there are no reportable performance metrics because there was an insufficient number of received submissions for the respective MDUFA cohort or there were no submissions.

## **Updated FY 2019 Performance**

### **Review Goals**

FDA received enough FY 2019 submissions to calculate performance for 17 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 17 review goals, 15 review goals were sufficiently complete to determine the outcome and were met, one review goal was sufficiently complete to determine the outcome and was missed, and one review goal is pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohort is not yet sufficiently complete to determine the outcome). This pending goal will be included in a future report upon closure of the review cohort.

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## ***Introduction***

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On August 18, 2017, the President signed into law the FDA Reauthorization Act of 2017 (FDARA) (Public Law 115-52), which included the reauthorization and expansion of the Medical Device User Fee Amendments (MDUFA) for 5 additional years (fiscal year (FY) 2018 through FY 2022) (referred to as “MDUFA IV”). MDUFA IV authorizes the U.S. Food and Drug Administration (FDA or the Agency) to collect user fees for the review of medical device premarket applications, reports, and other submissions and for establishment registrations. In return, FDA committed to meet certain review goals (including shared outcome goals) and performance enhancement goals.<sup>1</sup>

Some of the notable changes to MDUFA IV include the addition of more rigorous outcome goals shared by both industry and FDA, new review goals for Pre-Submissions and De Novo classification requests, and a number of new performance enhancement goals. Additional information on the history of MDUFA I, MDUFA II, and MDUFA III can be found on FDA’s website.<sup>2</sup>

## **Performance Presented in This Report**

### **MDUFA Review Goals**

For this report, MDUFA review goals include review goals with specific target percentages (e.g., 90 percent), a Pre-Submission written feedback goal, and shared outcome goals. In any given year, FDA’s review goal performance includes reviews of submissions pending from previous fiscal years and submissions received during the current fiscal year.

This report presents preliminary review goal performance for the FY 2021 MDUFA IV cohort submissions. This report also includes updated review goal performance information for FY 2019 and FY 2020 MDUFA IV cohort submissions.

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

- Unless otherwise noted, all performance data are as of September 30, 2021.
- Unless otherwise noted, review goal performance is based on FDA’s combined performance on MDUFA submissions reviewed in the Center for Devices and Radiological Health (CDRH) and/or the Center for Biologics Evaluation and Research (CBER), depending on submission type. This is different from MDUFA Quarterly Performance Reports located on FDA’s website,<sup>3</sup> in which performance

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<sup>1</sup> [www.fda.gov/media/102699/download](http://www.fda.gov/media/102699/download).

<sup>2</sup> [www.fda.gov/about-fda/user-fee-performance-reports/mdufa-performance-reports](http://www.fda.gov/about-fda/user-fee-performance-reports/mdufa-performance-reports).

<sup>3</sup> [www.fda.gov/industry/medical-device-user-fee-amendments-mdufa/mdufa-quarterly-performance-reports](http://www.fda.gov/industry/medical-device-user-fee-amendments-mdufa/mdufa-quarterly-performance-reports).

is reported separately for each Center. Details of which Center reviews each submission type are outlined in Appendix A of this report.

- With the exception of shared outcome goals and the Pre-Submission written feedback goal, only review goals with specific target percentages (e.g., 90 percent) are presented in this report. Information on review goals without target percentages can be found in the MDUFA IV Quarterly Performance Reports.
- Review goal performance data are based on a fiscal year receipt cohort. Until all submissions in a cohort receive a final decision or are sufficiently complete for FDA to determine whether the review goal has been met, a preliminary performance assessment is provided for that cohort. The MDUFA cohort performance for each submission type is therefore subject to change until that cohort is closed.
- Submissions that were closed without a MDUFA decision are not included in the MDUFA cohort and, therefore, are not included in the data used to measure MDUFA performance. For the number of submissions received that have passed applicable, preliminary administrative requirements (e.g., eCopy, User Fee) regardless of whether closed with or without an FDA MDUFA decision, please refer to the Review Workload tables in this report. MDUFA decisions for each submission type are outlined in Appendix A of this report.
- The Original Premarket Approval Applications (PMAs), Product Development Protocols (PDPs), Panel-Track PMA Supplements, and Premarket Reports performance includes PMAs that have been filed for devices granted a breakthrough designation (previously referred to as “priority review” or “expedited”).
- Biologics License Applications (BLAs) have many application categories: Priority Original, Standard Original, Priority Efficacy Supplements, Standard Efficacy Supplements, Manufacturing Supplements Requiring Prior Approval, Class I Original BLA and BLA Efficacy Supplement Resubmissions, and Class II Original BLA and BLA Efficacy Supplement Resubmissions.
- As agreed, upon, “FDA days” refers to the calendar days in which a submission is under review by FDA. FDA days begin on FDA’s date of receipt of the Refuse to Accept (RTA)-acceptable submission or of the amendment to the submission that enables the submission to be accepted or filed.
- “Review-time goals” are defined as the time period identified by the number of calendar days or FDA days for when individual submissions are to have an interaction or be acted on. An “on-time” (or “within goal”) “review” indicates that an action was completed within the number of days specified by the review-time goal.
- Review-time goals range from 60 days to 320 days. To meet MDUFA review goals with specific target percentages, FDA must meet the various review-time

goals from 50 to 95 percent of the time, depending on the specific goal and fiscal year.

- Performance for review goals with specific target percentages is based on the number of submissions reviewed on time (i.e., completed within the goal) and overdue (i.e., acted on past the review goal or pending past the review goal) and is presented as the within goal performance percentage.
- The “within goal performance percentage” refers to the percent of reviews where FDA met a review-time goal for a given type of submission. FDA’s within goal performance percentage for a given type of submission is used to determine whether FDA met or exceeded the MDUFA review goals.
- When determining FDA’s performance for review goals with specific target percentages, calculated percentages are rounded to the nearest whole number up to 99 percent. Percentages above 99 percent, but below 100 percent, are always rounded down to 99 percent.
- “Filing status” refers to whether the review team has decided that the application is administratively and scientifically complete and contains adequate content, presentation, and organization of information.
- Preliminary review goal performance for FY 2021 submissions is shown as the percentage of submissions completed within goal as of September 30, 2021, excluding any submissions that have not yet reached their due date. The highest possible percent of reviews that may be completed within goal is shown as the highest possible review goal performance.
- Review goal performance presented in this report for Premarket Notifications (or 510(k)s) includes CDRH’s Third Party 510(k)s. Information on the CDRH 510(k) review goal performance without Third Party 510(k)s can be found in the MDUFA IV Quarterly Performance Reports located on FDA’s website.<sup>4</sup>

## **MDUFA Performance Enhancement Goals**

For this report, “performance enhancement goals” are defined as any non-review goal identified in the letters<sup>5</sup> described in section 201(b) of MDUFA IV for the applicable fiscal year. Performance information on the FY 2021 performance enhancement goals is located in Appendices D and E of this report.

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<sup>4</sup> [www.fda.gov/industry/medical-device-user-fee-amendments-mdufa/mdufa-quarterly-performance-reports](http://www.fda.gov/industry/medical-device-user-fee-amendments-mdufa/mdufa-quarterly-performance-reports).

<sup>5</sup> <https://www.fda.gov/files/about%20fda/published/MDUFA--Performance-Goals-and-Procedures--Fiscal-Years-2018-Through-2022.pdf>

## **Additional Performance Data**

On May 5, 2017, the Consolidated Appropriations Act, 2017 (Public Law 115-31), was enacted into law, which provided appropriations under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies bill for the fiscal year ending September 30, 2017. Senate Report 114-259 directed FDA to provide performance information related to medical devices—specifically, the extent to which the Agency’s responses meet statutory time frames and total numbers for De Novo classification requests under section 513(f)(2) (De Novo classification) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), for requests for information about classification under section 513(g), and for postmarket device surveillance plan submissions under section 522 of the FD&C Act (also known as a “section 522 plan”). These data are contained in Appendix B of this report.

As stated earlier, on August 18, 2017, FDARA was signed into law. FDARA amended the FD&C Act to revise and extend the user fee programs for human drugs, biologics, generic drugs, medical devices, and biosimilar biological products. FDARA requires “additional information” (section 903, beginning in FY 2018), a “rationale for MDUFA program changes” (section 903, beginning in FY 2020), and specified analyses of the use of funds (section 904, beginning in FY 2018) in the annual performance reports of each of the human medical product user fee programs. FDARA also requires FDA to publicly issue a corrective action report that either (1) confirms that the Agency’s commitment letter goals were met and makes recommendations for improvements or (2) identifies which commitment letter goals were not met in MDUFA IV for the applicable fiscal year (section 904). This information is contained in Appendices C, D, E, and F of this report.

## Submission Types Included in This Report

The following submission types are included in the MDUFA performance data tables in this report:

- **Original PMA** - An application providing scientific and medical data to demonstrate a reasonable assurance that a Class III medical device is safe and effective for its intended use.
- **PDP** - A PDP allows an applicant to reach an early agreement with FDA as to what will be done to demonstrate the safety and effectiveness of a new device. Early interaction in the development cycle of a device allows an applicant to address the concerns of FDA before expensive and time-consuming resources are expended. A PDP that has been declared completed by FDA is considered to have an approved PMA.
- **Panel-Track PMA Supplement** - A supplemental application to an approved PMA or premarket report that requests approval of a significant change in design or performance of the device, or a new indication for use of the device, and for which clinical data are necessary to provide a reasonable assurance of safety and effectiveness.
- **Premarket Report for Reprocessed Single Use Devices** - A type of premarket application required for high-risk devices originally approved for a single use (that is, use on a single patient during a single procedure) that a manufacturer has reprocessed for an additional use. Reprocessors of certain single use devices are required to submit premarket reports instead of PMAs.
- **180-Day PMA Supplement** - A supplemental application to an approved PMA or premarket report that requests approval of a significant change in aspects of a device, such as its design, specifications, or labeling, when demonstration of a reasonable assurance of safety and effectiveness either does not require new clinical data or requires only limited clinical data.
- **Real-Time PMA Supplement** - A supplement to an approved PMA or premarket report that requests approval of a minor change to the device, such as a minor change to the design of the device, software, sterilization, or labeling, and for which the applicant has requested, and the Agency has granted a meeting or similar forum to jointly review and determine the status of the supplement.
- **De Novo Classification Request** - The De Novo classification process provides a pathway to classify novel medical devices for which general controls alone, or general and special controls, provide a reasonable assurance of safety and effectiveness for the intended use, but for which there is no legally marketed predicate device. De Novo classification is a risk-based classification process. Devices that are classified into Class I or Class II through a De Novo classification request may be marketed and used as predicates for future premarket notification (i.e., 510(k)) submissions.

- **Premarket Notification (510(k))** - A premarket submission made to FDA to demonstrate that a device to be marketed is substantially equivalent to a legally marketed predicate device that is not subject to the PMA review process. Applicants must compare their proposed device to one or more similar legally marketed devices and support their substantial equivalence claim.<sup>6</sup>
- **Clinical Laboratory Improvement Amendments (CLIA) Waiver** - A categorization issued by FDA allowing certain laboratory tests to be performed by laboratories with a CLIA Certificate of Waiver.
- **CLIA Waiver by Application** - A submission providing data to demonstrate that a laboratory test is simple and has an insignificant risk of erroneous results.
- **Dual 510(k) and CLIA Waiver by Application** - A single premarket submission seeking both 510(k) clearance and CLIA waiver. Generally, to support 510(k) clearance and CLIA waiver, such submissions demonstrate that a laboratory test is substantially equivalent to a legally marketed device, as appropriate, and is simple and has an insignificant risk of erroneous results.
- **Pre-Submission** - A formal written request from an applicant for feedback from FDA that is provided in the form of a formal written response or, if the manufacturer chooses, a meeting or teleconference in which the feedback is documented in meeting minutes. A “Pre-Submission meeting” is a meeting or teleconference in which FDA provides its substantive feedback on the Pre-Submission. A Pre-Submission provides the opportunity for an applicant to obtain FDA’s feedback prior to an intended submission of an Investigational Device Exemption (IDE) or marketing application. The request should include specific questions regarding review issues relevant to a planned IDE or marketing application.
- **BLA** - An application submitted when an applicant wishes to obtain licensure of a biological product. A “priority BLA” is a BLA for a product that would, if approved, involve a significant improvement in the safety or effectiveness of the treatment, diagnosis, or prevention of a serious condition. A “non-priority BLA” is considered a “standard BLA.”<sup>7</sup>
- **BLA Supplement** - A supplemental application to an approved BLA requesting approval of a change to a licensed biological product. When the change has the substantial potential to affect the safety or effectiveness of the product, FDA’s approval is required prior to product distribution. A supplement to an approved application proposing to make one or more changes to a product, its manufacturing,

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<sup>6</sup> For more information on 510(k)s, see [www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/PremarketSubmissions/PremarketNotification510k/default.htm](http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/PremarketSubmissions/PremarketNotification510k/default.htm).

<sup>7</sup> For more information on BLAs, see [www.fda.gov/vaccines-blood-biologics/development-approval-process-cber/biologics-license-applications-bla-process-cber](http://www.fda.gov/vaccines-blood-biologics/development-approval-process-cber/biologics-license-applications-bla-process-cber).

or its labeling that necessitates the submission of data from significant clinical studies is considered an “Efficacy Supplement.”

- **BLA Resubmission and BLA Efficacy Supplement Resubmission** - A resubmission used to respond to a letter from FDA indicating that the information was deficient. For Class I resubmissions, the new information may include matters related to product labeling, safety updates, and other minor clarifying information. For Class II resubmissions, the new information could warrant presentation to an advisory committee or a re-inspection of the manufacturer’s device establishment.

## **MDUFA IV Review-Time Goals and Commitments**

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For this report, MDUFA IV review goals include review goals with specific target percentages, Pre-Submission written feedback goals, and shared outcome goals. The tables below summarize the review goal commitments agreed to in MDUFA IV for FY 2018 through FY 2022.

### **Review Goals with Specific Target Percentages**

The tables below summarize the 23 review goals agreed to in MDUFA IV that have specific target percentages. Review goals with specific target percentages are defined by both a “review-time goal” (i.e., the time period, identified by the number of calendar days or FDA days for when individual submissions are to have an interaction or be acted on) and “commitment target” (i.e., the target percentage of submissions required to meet the review-time goal), both of which are summarized below for all relevant submission types and for each fiscal year from FY 2018 through FY 2022.

The following table also summarizes the review goal for Pre-Submission written feedback. The commitment target for this goal, which is included for ease of reference, is defined by the number of submissions, not percentage of submissions, that meet the review-time goal.

### **Review-Time Goals and Commitment Targets**

Submission Type	Review-Time Goal	Commitment Target				
		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports</b>						
Substantive Interaction	90 calendar days	95%	95%	95%	95%	95%
Decision with No Advisory Committee Input	180 FDA days	90%	90%	90%	90%	90%
Decision with Advisory Committee Input	320 FDA days	90%	90%	90%	90%	90%
<b>180-Day PMA Supplements</b>						
Substantive Interaction	90 calendar days	95%	95%	95%	95%	95%
Decision	180 FDA days	95%	95%	95%	95%	95%
<b>Real-Time PMA Supplements</b>						
Decision	90 FDA days	95%	95%	95%	95%	95%
<b>De Novo Classification Requests</b>						
Decision	150 FDA days	50%	55%	60%	65%	70%

## Review-Time Goals and Commitment Targets (continued)

Submission Type	Review-Time Goal	Commitment Target				
		FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>510(k) Premarket Notifications</b>						
Substantive Interaction	60 calendar days	95%	95%	95%	95%	95%
Decision	90 FDA days	95%	95%	95%	95%	95%
<b>CLIA Waiver by Applications</b>						
Substantive Interaction	90 calendar days	90%	90%	90%	90%	90%
Decision with No Advisory Committee Input	150 FDA days	90%	90%	90%	90%	90%
Decision with Advisory Committee Input	320 FDA days	90%	90%	90%	90%	90%
<b>Dual 510(k) and CLIA Waiver by Applications</b>						
Substantive Interaction	90 calendar days	90%	90%	90%	90%	90%
Decision with No Advisory Committee Input	180 FDA days	90%	90%	90%	90%	90%
Decision with Advisory Committee Input	320 FDA days	90%	90%	90%	90%	90%
<b>Pre-Submissions</b>						
Provide Written Feedback*	70 calendar days or 5 days prior to the meeting, whichever comes sooner	1,530	1,645	1,765	1,880	1,950
<b>BLAs</b>						
Priority Original BLAs	6 calendar months	90%	90%	90%	90%	90%
Standard Original BLAs	10 calendar months	90%	90%	90%	90%	90%
BLA Manufacturing Supplements Requiring Prior Approval	4 calendar months	90%	90%	90%	90%	90%
Priority BLA Efficacy Supplements	6 calendar months	90%	90%	90%	90%	90%
Standard BLA Efficacy Supplements	10 calendar months	90%	90%	90%	90%	90%
Class 1 Original BLA and BLA Efficacy Supplement Resubmissions	2 calendar months	90%	90%	90%	90%	90%
Class 2 Original BLA and BLA Efficacy Supplement Resubmissions	6 calendar months	90%	90%	90%	90%	90%

\*This goal is defined by the number, not percentage, of submissions that meet the review-time goal.

## Shared Outcome Goals

The table below summarizes the review goals related to the shared outcomes agreed to in MDUFA IV for relevant submission types and for each fiscal year from FY 2018 through FY 2022. Shared outcome goals represent a commitment by both FDA and applicants; these goals are reported as the average total time to decision (TTD) within a closed cohort and are based on the methodology prescribed in the MDUFA IV commitment letter.

### MDUFA IV's Shared Outcome Goals

Submission Type	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>Original PMAs and Panel-Track PMA Supplements</b>					
Total TTD Goal (Days)	320	315	310	300	290
<b>510(k) Premarket Notifications</b>					
Total TTD Goal (Days)	124	120	116	112	108

## ***MDUFA IV Review Goal Performance***

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### **Summary of Review Goal Performance**

For this report, MDUFA IV review goals include review goals with specific target percentages, Pre-Submission written feedback goals, and shared outcome goals. The tables below summarize FDA's MDUFA IV review goal performance in FY 2019, FY 2020, and FY 2021. FDA will continue to report on review goal performance until it can determine if it has met or missed each goal for which it has received sufficient submissions to determine the goal performance.

Each fiscal year, FDA has the following 25 MDUFA IV review goals: 23 review goals with specific target percentages (including one Pre-Submission written feedback goal) and two shared outcome goals. Preliminary and updated performance data through September 30, 2021, including completed and pending reviews, indicate that FDA has sufficient data to calculate performance on 17 FY 2019 goals, 16 FY 2020 goals, and 13 FY 2021 goals. FDA met (or has the potential to meet) 15 of the 17 FY 2019 review goals, 13 of the 16 FY 2020 review goals, and 9 of the 13 FY 2021 review goals. However, FDA's response to the unprecedented COVID-19 public health emergency has impacted its MDUFA performance, resulting in three missed FY 2020 review goals and four missed FY 2021 review goals.

### **Review Goals with Specific Target Percentages**

The following tables provide FDA's preliminary performance data on the 23 review goals with specific target percentages for submissions in the relevant fiscal year MDUFA Cohort [A]. This table includes FDA's performance on the Pre-Submission written feedback goal. The "Pre-Submission written feedback goal," which is included for ease of reference, is defined by the number of submissions, not a specific target percentage. Additional detail on FDA's review goal performance can be found in the MDUFA IV Quarterly Performance Reports posted on FDA's website.<sup>8</sup>

Additional information about the performance provided in the below tables is as follows:

- *MDUFA Cohort [A]* = the number of submissions Completed Within Goal [B], Completed Overdue [C], Pending Within Goal [D], and Pending Overdue [E] ( $[A] = [B]+[C]+[D]+[E]$ ).
- *Completed Within Goal [B]* = the number of submissions with a MDUFA action as of September 30, 2021, that met the MDUFA goal.

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<sup>8</sup> [www.fda.gov/ForIndustry/UserFees/MedicalDeviceUserFee/ucm452535.htm](http://www.fda.gov/ForIndustry/UserFees/MedicalDeviceUserFee/ucm452535.htm).

- *Completed Overdue [C]* = the number of submissions with a MDUFA action as of September 30, 2021, that did not meet the MDUFA goal.
- *Pending Within Goal [D]* = the number of submissions without a MDUFA action that were still within the goal as of September 30, 2021.
- *Pending Overdue [E]* = the number of submissions without a MDUFA action that were past the goal as of September 30, 2021.
- *Review Goal [F]* = the “commitment target” as defined in the previous section of this report, which is the target percentage of the relevant fiscal year MDUFA cohort submissions that are required to meet the review-time goal.
- *Current Review Goal Performance [G]* = the percentage of actions that FDA completed within the review-time goal. When calculating [G], the numerator is the number Completed Within Goal [B]. The denominator is the MDUFA Cohort [A] minus all submissions Pending Within Goal [D]. Therefore, Current Review Goal Performance [G] = [B] / ([A] - [D]). When the fiscal year cohort was sufficiently complete to determine the outcome, this column indicates whether FDA met (“(MET)” in the tables below) or missed (“(MISSED)” in the tables below) the goal.
- *Highest Possible Review Goal Performance [H]* = the scenario when all pending submissions within the goal are completed within that goal. [H] is calculated by adding all submissions Pending Within Goal [D] to those already Completed Within Goal [B] divided by the MDUFA Cohort [A]. Therefore, Highest Possible Review Goal Performance [H] = ([B] + [D]) / [A].
- For certain submissions, the MDUFA IV commitment letter states it is acceptable to combine a MDUFA cohort of less than 10 submissions (from any one fiscal year) with the MDUFA cohort of other fiscal year(s) to form a combined cohort of 10 or more submissions and calculate a combined performance. Applicable submissions include PMA submissions that require Advisory Committee input and CLIA Waiver by Application submissions (including “Dual 510(k) and CLIA Waiver by Applications”). If performance has been calculated in this way, the table will include data from the combined cohort (used to calculate performance), followed by data from the single fiscal year (in parentheses). Performance for applicable review goals will not be calculated if, after combining with other fiscal year cohort(s), a combined cohort does not include at least 10 submissions.

## FY 2021 Preliminary Performance Data

FDA had a sufficiently complete MDUFA cohort to determine the outcome for five of the 23 review goals with specific target percentages. For the remaining 18 goals, the MDUFA cohort was insufficiently complete to determine the outcome (six goals), FDA did not receive any submissions (seven goals), or the received MDUFA cohort was insufficient (in single or combined years) to calculate performance (five goals).

For goals for which FDA received a sufficient MDUFA cohort to calculate performance and had at least one “Completed” submission, the table below includes both a calculated “Current Review Goal Performance” (column [G]) and “Highest Possible Review Goal Performance” (column [H]). The review goals for which the MDUFA cohort was sufficiently complete to determine the outcome (as well as whether the goal was met or missed) are shown in **bold** text.

In summary, as of September 30, 2021, FDA has met one review goal with a specific target percentage and missed four. Specifically, FDA met the BLA Manufacturing Supplements Requiring Prior Approval review goal and missed the Original PMA, PDPs, Panel-Track PMA Supplements, and Premarket Reports – Substantive Interaction, 180-Day PMA Supplements – Substantive Interaction, 510(k) Premarket Notifications – Substantive Interaction, and 510(k) Premarket Notifications – Decision review goals.

## FY 2021 Preliminary Performance Data

Submission Type	MDUFA Cohort [A]	Completed Within Goal [B]	Completed Overdue [C]	Pending Within Goal [D]	Pending Overdue [E]	Review Goal [F]	Current Review Goal Performance [G]	Highest Possible Review Goal Performance [H]
<b>Original PMA, PDPs, Panel-Track PMA Supplements, and Premarket Reports</b>								
Substantive Interaction	67	47	4	9	7	95%	81% (MISSED)	84%
Decision with No Advisory Committee Input	65	16	1	44	4	90%	76%	92%
Decision with Advisory Committee Input	2 <sup>‡</sup>	1	0	1	0	90%	§	§
<b>180-Day PMA Supplements</b>								
Substantive Interaction	187	107	21	56	3	95%	82% (MISSED)	87%
Decision	186	74	4	102	6	95%	88%	95%
<b>Real-Time PMA Supplements</b>								
Decision	285	230	6	49	0	95%	97%	98%
<b>De Novo</b>								
Decision	49	7	2	32	8	65%	41%	80%
<b>510(k) Premarket Notifications<sup>†</sup></b>								
Substantive Interaction	3,222	2,416	249	488	69	95%	88% (MISSED)	90%
Decision	3,268	1,607	72	1,461	128	95%	89% (MISSED)	94%
<b>CLIA Waiver by Applications</b>								
Substantive Interaction <sup>#</sup>	4 (3)	0 (0)	3 (3)	0 (0)	0 (0)	90%	‡	‡
Decision with No Advisory Committee Input <sup>#</sup>	4 (3)	1 (1)	1 (0)	0 (0)	2 (2)	90%	‡	‡
Decision with Advisory Committee Input	0	0	0	0	0	90%	*	*

\* No submissions were received in FY 2020; therefore, no performance can be reported.

<sup>†</sup> Third Party 510(k)s have a Decision but do not have a Substantive Interaction. As such, both Third Party and non-Third Party 510(k)s are included in the Decision data, but only non-Third Party 510(k)s are included in the Substantive Interaction data.

<sup>‡</sup> Per an agreement in the MDUFA IV commitment letter, the MDUFA cohort from this fiscal year was combined with the cohort from a prior fiscal year because the prior fiscal year cohort was insufficient (< 10) to calculate performance. However, the combined cohort was also insufficient (< 10) to calculate performance. Therefore, performance will be calculated in a future fiscal year when a combined cohort of 10 or more submissions is achieved.

<sup>#</sup> The MDUFA cohort for this fiscal year was insufficient (< 10) to calculate performance. Therefore, per an agreement in the MDUFA IV commitment letter, performance will be calculated in a future fiscal year when a combined cohort of 10 or more submissions is achieved.

<sup>\*</sup> One CLIA Waiver was withdrawn before Substantive Interaction, and Withdrawn counts as a Decision.

## FY 2021 Preliminary Performance Data (continued)

Submission Type	MDUFA Cohort [A]	Completed Within Goal [B]	Completed Overdue [C]	Pending Within Goal [D]	Pending Overdue [E]	Review Goal [F]	Current Review Goal Performance [G]	Highest Possible Review Goal Performance [H]
<b>Dual 510(k) and CLIA Waiver by Applications</b>								
Substantive Interaction	4 <sup>‡</sup>	0	1	0	3	90%	‡	‡
Decision with No Advisory Committee Input	4 <sup>‡</sup>	1	0	0	3	90%	‡	‡
Decision with Advisory Committee Input	0	0	0	0	0	90%	*	*
<b>Pre-Submissions</b>								
Provide Written Feedback	2618	1,708	346	497	67	1,880	1,708	2205
<b>BLAs</b>								
Priority Original BLAs	0	0	0	0	0	90%	*	*
Standard Original BLAs	2	0	0	2	0	90%	n/a	100%
<b>BLA Manufacturing Supplements Requiring Prior Approval<sup>†</sup></b>	52	49	0	3	0	90%	<b>100% (MET)</b>	100%
Priority BLA Efficacy Supplements	0	0	0	0	0	90%	*	*
Standard BLA Efficacy Supplements	0	0	0	0	0	90%	*	*
Class 1 Original BLA and BLA Efficacy Supplement Resubmissions	0	0	0	0	0	90%	*	*
Class 2 Original BLA and BLA Efficacy Supplement Resubmissions	0	0	0	0	0	90%	*	*

\* No submissions were received in FY 2021; therefore, no performance can be reported.

<sup>†</sup>Final review goal performance may change once all pending submissions are completed, but the Review Goal will still be met even if all pending submissions do not meet the goal.

<sup>‡</sup>The MDUFA cohort for this fiscal year was insufficient (< 10) to calculate performance. Therefore, per an agreement in the MDUFA IV commitment letter, performance will be calculated in a future fiscal year when a combined cohort of 10 or more submissions is achieved.

## FY 2020 Updated Performance Data

FDA had a sufficiently complete MDUFA cohort to determine the outcome for nine of the 23 review goals with specific target percentages. For the remaining 14 goals, the MDUFA cohort was insufficiently complete to determine the outcome (5 goals), FDA did not receive any submissions (7 goals), or the received MDUFA cohort was insufficient (in single or combined years) to calculate performance (2 goals).

For goals for which FDA received a sufficient MDUFA cohort to calculate performance and had at least one “Completed” submission, the table below includes both a calculated “Current Review Goal Performance” (column [G]) and “Highest Possible Review Goal Performance” (column [H]). The review goals for which the MDUFA cohort was sufficiently complete to determine the outcome (as well as whether the goal was met or missed) are shown in **bold** text in the table below.

In summary, as of September 30, 2021, FDA has met six review goals with a specific target percentage and missed three. Specifically, FDA met the Original PMA, PDPs, Panel-Track PMA Supplements, Premarket Reports – Substantive Interaction, Real Time PMA – Decision, Dual 510(k) and CLIA Waiver by Application – Substantive Interaction, Pre-Submissions – Provide Written Feedback, BLA Manufacturing Supplements Requiring Prior Approval, and Class 2 Original BLA and BLA Efficacy Supplement Resubmissions review goals and missed the 180-Day PMA Supplements – Substantive Interaction, 510(k) Premarket Notifications - Substantive Interaction, and Dual 510(k) and CLIA Waiver by Applications - Decision with No Advisory Committee Input review goals.

## FY 2020 Updated Performance Data

Submission Type	MDUFA Cohort [A]	Completed Within Goal [B]	Completed Overdue [C]	Pending Within Goal [D]	Pending Overdue [E]	Review Goal [F]	Current Review Goal Performance [G]	Highest Possible Review Goal Performance [H]
<b>Original PMA, PDPs, Panel-Track PMA Supplements, and Premarket Reports</b>								
Substantive Interaction	76	72	4	0	0	95%	95% (MET)	95%
Decision with No Advisory Committee Input	72	57	3	10	2	90%	92%	93%
Decision with Advisory Committee Input	11 <sup>‡</sup> (4)	9 (3)	1 (0)	1 (1)	0 (0)	90%	90%**	91%**
<b>180-Day PMA Supplements</b>								
Substantive Interaction	181	169	11	0	1	95%	93% (MISSED)	93%
Decision	175	160	3	10	2	95%	97%	97%
<b>Real-Time PMA Supplements</b>								
Decision	355	351	4	0	0	95%	99% (MET)	99%
<b>De Novo Classification Requests</b>								
Decision	64	35	13	9	7	60%	64%	69%
<b>510(k) Premarket Notifications<sup>†</sup></b>								
Substantive Interaction <sup>†</sup>	3,522	3,314	191	9	8	95%	94% (MISSED)	94%
Decision	3,329	2,992	92	183	62	95%	95%	95%
<b>CLIA Waiver by Applications<sup>#</sup></b>								
Substantive Interaction	1	0	0	0	0	90%	§	§
Decision with No Advisory Committee Input	1	0	1	0	0	90%	§	§
Decision with Advisory Committee Input	0	0	0	0	0	90%	*	*

\* No submissions were received in FY 2020; therefore, no performance can be reported.

<sup>†</sup> Third Party 510(k)s have a Decision but do not have a Substantive Interaction. As such, both Third Party and non-Third Party 510(k)s are included in the Decision data, but only non-Third Party 510(k)s are included in Substantive Interaction data.

<sup>‡</sup> Per an agreement in the MDUFA IV commitment letter, the MDUFA cohort from this fiscal year was combined with the cohort from a prior fiscal year because the prior fiscal year cohort was insufficient (< 10) to calculate performance. However, the combined cohort was also insufficient (< 10) to calculate performance. Therefore, performance will be calculated in a future fiscal year when a combined cohort of 10 or more submission is achieved.

<sup>§</sup> The MDUFA cohort for this fiscal year was insufficient (< 10) to calculate performance. Therefore, per an agreement in the MDUFA IV commitment letter, performance will be calculated in a future fiscal year when a combined cohort of 10 or more submissions is achieved.

<sup>#</sup> One CLIA Waiver was withdrawn before Substantive Interaction, and Withdrawn counts as a Decision.

\*\* Performance was calculated from a combined MDUFA cohort of FY 2018, FY 2019, and FY 2020 submissions.

## FY 2020 Updated Performance Data (continued)

Submission Type	MDUFA Cohort [A]	Completed Within Goal [B]	Completed Overdue [C]	Pending Within Goal [D]	Pending Overdue [E]	Review Goal [F]	Current Review Goal Performance [G]	Highest Possible Review Goal Performance [H]
<b>Dual 510(k) and CLIA Waiver by Applications</b>								
<b>Substantive Interaction</b>	11 <sup>‡</sup> (6)	11 (6)	0 (0)	0 (0)	0 (0)	90%	<b>100%** (MET)</b>	100%**
Decision with No Advisory Committee Input	11 <sup>‡</sup> (6)	8 (4)	1 (0)	0 (0)	2 (2)	90%	<b>73%** (MISSED)</b>	73%**
Decision with Advisory Committee Input	0	0	0	0	0	90%	*	*
<b>Pre-Submissions</b>								
<b>Provide Written Feedback</b>	3,091	2,715	373	0	3	1,765	<b>2715 (MET)</b>	2715
<b>BLAs</b>								
Priority Original BLAs	0	0	0	0	0	90%	*	*
Standard Original BLAs	0	0	0	0	0	90%	*	*
<b>BLA Manufacturing Supplements Requiring Prior Approval</b>	92	92	0	0	0	90%	<b>100% (MET)</b>	100%
Priority BLA Efficacy Supplements	0	0	0	0	0	90%	*	*
Standard BLA Efficacy Supplements	0	0	0	0	0	90%	*	*
Class 1 Original BLA and BLA Efficacy Supplement Resubmissions	0	0	0	0	0	90%	*	*
<b>Class 2 Original BLA and BLA Efficacy Supplement Resubmissions</b>	1	1	0	0	0	90%	<b>100% (MET)</b>	100%

\* No submissions were received in FY 2020; therefore, no performance can be reported.

<sup>†</sup>Final review goal performance may change once all pending submissions are completed, but the Review Goal will still be met even if all pending submissions do not meet the goal.

<sup>‡</sup>Per an agreement in the MDUFA IV commitment letter, the MDUFA cohort from this fiscal year was combined with the cohort from a prior fiscal year because the prior fiscal year cohort was insufficient (< 10) to calculate performance. Now that a combined cohort of 10 or more submissions has been achieved, performance can be calculated.

\*\* Performance was calculated from a combined MDUFA cohort of FY 2019 and FY 2020 submissions.

## FY 2019 Updated Performance Data

By September 30, 2021, FDA had a sufficiently complete MDUFA cohort to determine the outcome for one of the two remaining review goals with specific target percentages from the FY 2019 cohort. In summary, FDA met this goal (for *180-Day PMA Supplements*). Details on FDA's performance for the one goal that is not yet sufficiently complete will be provided in a future report.

### FY 2019 Updated Performance Data

Submission Type	MDUFA Cohort [A]	Completed Within Goal [B]	Completed Overdue [C]	Pending Within Goal [D]	Pending Overdue [E]	Review Goal [F]	Current Review Goal Performance [G]	Highest Possible Review Goal Performance [H]
<b>Original PMA, PDPs, Panel-Track PMA Supplements, and Premarket Reports</b>								
Decision with No Advisory Committee Input	56	50	5	1	0	90%	91%	91%
<b>180-Day PMA Supplements</b>								
Decision	190	184	5	0	1	95%	<b>97% (MET)</b>	97%

## Shared Outcome Goals (FY 2018 Through FY 2022)

FDA has two shared outcome goals each fiscal year, one for Original PMAs and Panel-Track Supplements and one for 510(k)s. FDA committed to report the average TTD within a closed cohort based on the methodology prescribed in the MDUFA IV commitment letter. A PMA cohort is considered closed when 95 percent of applications have reached a decision. A 510(k) cohort is considered closed when 99 percent of accepted submissions have reached a decision. Both the 510(k) and PMA cohorts include submissions reviewed in CDRH and CBER.

As of September 30, 2021, the 510(k) and PMA cohorts for FY 2018 and FY 2019 had met the decision threshold to calculate the average TTD, and both cohorts had met the goal in FY 2018. The PMA shared outcome goal was met in FY 2019, and the 510(k) shared outcome was not met. FDA's performance in these cohorts (as well as whether the goal was met or missed) is shown in **bold** text in the table below.

As of September 30, 2021, neither the 510(k) nor the PMA cohorts for FY 2020 or FY 2021 had met the decision threshold to calculate the average TTD. FDA will report the average TTD for FY 2020 and FY 2021 in future reports once the cohorts have met the decision threshold.

### MDUFA IV's Shared Outcome Goals

Submission Type	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>Original PMAs and Panel-Track PMA Supplements</b>					
TTD Goal (Days)	320	315	310	300	290
TTD Performance (Days)	<b>272</b> (MET)	<b>267</b> (MET)	*	*	
<b>510(k) Premarket Notifications</b>					
TTD Goal (Days)	124	120	116	112	108
TTD Performance (Days)	<b>123</b> (MET)	<b>128</b> (MISSED)	*	*	

\* As of September 30, 2021, the fiscal year cohort had not met the decision threshold to calculate performance.

## ***MDUFA Review Workloads: FY 2016 Through FY 2021***

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The table below compares review workloads for submission types with MDUFA review goals for FY 2021 and a 5-year average (FY 2016 through FY 2020).

- The review workload reflects the number of submissions received that have passed applicable, preliminary administrative requirements (e.g., eCopy, User Fee). Details of which administrative requirements apply to which submission type are outlined in Appendix A.
- Five-year averages and comparisons are calculated only for submission types that had MDUFA review goals in the entire 5-year period. Review workload is reported as “N/A” for years when a submission type did not have MDUFA review goals.
- Review workload numbers may differ from the MDUFA cohort numbers presented in other tables because submissions closed without MDUFA decisions are not included in the MDUFA cohort.

The review workload in FY 2021 was calculated for 13 of the 15 submission types that had data available to calculate a 5-year average. The other two submission types were new to MDUFA IV and did not have the 5-year historical data. Five of the 13 submission types did not receive any submissions for FY 2021. For these five, three are showing a 100 percent change from FY 2021 as compared to the 5-year average, one had no submissions over the 5-year period, and one had a 5-year average less than one. 180-day Real-Time Supplements had a notable workload decrease in FY 2021 compared to the 5-year average.

## Review Workload by Submission Type

Submission Type	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	5-Year Average (FY 2016 to FY 2020)	FY 2021 Compared to 5-Year Average
Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports	74	70	77	59	80	80	73	9.6%
180-Day PMA Supplements	210	276	199	196	184 <sup>†</sup>	195	213	-8.5%
Real-Time PMA Supplements	329	338	341	375	360 <sup>†</sup>	287	349	-17.8%
510(k) Premarket Notifications	3,677	4,098	3,591	3,776	3,837	4,120	3,796	8.5%
De Novo Classification Requests	n/a	n/a	56	62	69	63	n/a*	n/a
CLIA Waiver by Applications	9	7	4	9	1	3	6	-50.0%
Dual 510(k) and CLIA Waiver by Applications	1	6	11	6	6	4	6	-33.3%
Pre-Submissions <sup>‡</sup>	n/a	n/a	2,783	3,253	3,383 <sup>†</sup>	3,166	n/a*	n/a
<b>BLAs</b>								
Priority Original BLAs	1	1	0	0	0	0	0	0%
Standard Original BLAs	26	5	14	4	0	2	5	-60.0%
BLA Manufacturing Supplements Requiring Prior Approval	47	38	94	54	92	52	66	-21.2%
Priority BLA Efficacy Supplements	0	0	0	0	0	0	0	0%
Standard BLA Efficacy Supplements	1	1	8	2	0	0	2	-100.0%
Class 1 Original BLA and BLA Efficacy Supplement Resubmissions	2	1	1	17	0	0	4	-100.0%
Class 2 Original BLA and BLA Efficacy Supplement Resubmissions	28	40	7	0	1	0	10	-100.0%

\* No 5-year average is available due to a lack of MDUFA review goals in some years.

† Data were updated from the FY2020 MDUFA Performance Report to Congress.

‡ This does not include Pre-Submissions resubmitted after being closed without feedback due to a reallocation of resources for COVID-19 activities.

## **Appendices**

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### **Appendix A: Definitions of Key Terms**

**A. Applicant:** Applicant means a person who makes any of the following submissions to FDA:

- an application for premarket approval under section 515 of the FD&C Act;
- a premarket notification under section 510(k) of the FD&C Act;
- a De Novo classification request under section 513(f)(2) of the FD&C Act;
- a Pre-Submission;
- a CLIA waiver by application;
- a Dual 510(k) and CLIA waiver by application; or
- a BLA or supplement to a BLA under the Public Health Service Act.

**B. Electronic Copy (eCopy):** An electronic copy is an exact duplicate of a submission, created and submitted on a CD, DVD, or in another electronic media format that FDA has agreed to accept, accompanied by a copy of the signed cover letter and the complete original paper submission. An electronic copy is not considered to be an “electronic submission,” although it is considered to be a type of submission in electronic format.

**C. FDA Days:** FDA days are the calendar days in which a submission is considered to be under review at the Agency for submissions that have been accepted (510(k) or De Novo classification request) or filed (PMA) or submitted (CLIA Waiver by Application). FDA days begin on FDA’s date of receipt of the Third Party or RTA-acceptable non-Third Party submission or of the amendment to the submission that enables the submission to be accepted (510(k) or De Novo classification request) or filed (PMA).

**D. MDUFA Decisions:** MDUFA decisions for each MDUFA submission type are as follows:

Submission Type	MDUFA Decisions
Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports	<ul style="list-style-type: none"><li>• Approval</li><li>• Approvable</li><li>• Approvable pending good manufacturing practice (GMP) inspection</li><li>• Not Approvable</li><li>• Withdrawal (including Deletions)</li><li>• Denial</li></ul>
180-Day PMA Supplements	<ul style="list-style-type: none"><li>• Approval</li><li>• Approvable</li><li>• Approvable pending GMP inspection</li><li>• Not Approvable</li></ul>

Submission Type	MDUFA Decisions
Real-Time PMA Supplements	<ul style="list-style-type: none"> <li>• Approval</li> <li>• Approvable</li> <li>• Not Approvable</li> </ul>
510(k)s	<ul style="list-style-type: none"> <li>• Substantially Equivalent (SE)</li> <li>• Not Substantially Equivalent (NSE)</li> </ul>
De Novo Classification Requests	<ul style="list-style-type: none"> <li>• Grant</li> <li>• Withdrawal (including Deletions)</li> <li>• Decline</li> </ul>
CLIA Waiver by Applications	<ul style="list-style-type: none"> <li>• Approval</li> <li>• Withdrawal (including Deletions)</li> <li>• Denial</li> </ul>
Dual 510(k) and CLIA Waiver by Applications	<ul style="list-style-type: none"> <li>• SE/Approval</li> <li>• SE/Withdrawal</li> <li>• SE/Denial</li> <li>• Withdrawal (including Deletions)</li> <li>• NSE/Denial</li> </ul>
Pre-Submissions	<ul style="list-style-type: none"> <li>• Email Reply</li> <li>• Email Feedback Sent Before Meeting</li> </ul>
BLAs and Biologics License Supplements (BLSs)	<ul style="list-style-type: none"> <li>• Complete response</li> <li>• Approval</li> <li>• Denial</li> </ul>

BLAs have many application categories: Priority Original, Standard Original, Priority Efficacy Supplements, Standard Efficacy Supplements, Manufacturing Supplements Requiring Prior Approval, Class I Original BLA and BLA Efficacy Supplement Resubmissions, and Class II Original BLA and BLA Efficacy Supplement Resubmissions. Submissions placed on Application Integrity Program Hold will be removed from the MDUFA cohort.

**E. Pre-Submission:** A Pre-Submission includes a formal written request from an applicant for feedback from FDA that is provided in the form of a formal written response or, if the manufacturer chooses, a meeting or teleconference in which the feedback is documented in meeting minutes. A Pre-Submission meeting is a meeting or teleconference in which FDA provides its substantive feedback on the Pre-Submission. A Pre-Submission provides the opportunity for an applicant to obtain FDA's feedback prior to an intended submission of an IDE or marketing application. The request should include specific questions regarding review issues relevant to a planned IDE or marketing application (e.g., questions regarding pre-clinical and clinical testing protocols or data requirements). A Pre-Submission is appropriate when FDA's feedback on specific questions is necessary to guide product development and/or application preparation. Certain forms of FDA's feedback to applicants, such as the following, are not considered Pre-Submissions because they represent information that can be readily addressed by the FDA review team or are another type of submission:

- General information requests initiated through the Division of Industry and Consumer Education
- General questions regarding FDA's policy or procedures
- Meetings or teleconferences that are intended to be informational only, including, but not limited to, those intended to educate the review team on new device(s) with significant differences in technology from currently available devices or to update FDA about ongoing or future product development without a request for FDA's feedback on specific questions related to a planned submission
- Requests for clarification on technical guidance documents, especially when contact is recommended by FDA in the guidance document. However, the following requests should generally be submitted as a Pre-Submission to ensure appropriate input from multiple reviewers and management: consultation on device types not specifically addressed in the guidance document; clarification of nonclinical or clinical studies not addressed in the guidance document; and requests regarding use of an alternative means to address recommendations specified in the guidance document.
- Phone calls or email messages to reviewers that can be readily answered based on a reviewer's experience and knowledge and do not require the involvement of a broader number of FDA staff beyond the routine involvement of the reviewer's supervisor and more experienced mentors.
- Interactions requested by either the applicant or FDA during the review of a marketing application (i.e., following the submission of a marketing application, but prior to FDA reaching a decision).

**F. Review Workload:** The review workload reflects the number of submissions received that have passed applicable, preliminary administrative requirements (e.g., eCopy, User Fee). Details of which administrative requirements apply to which submission type are as follows:

Submission Type	Applicable Administrative Requirements
Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports	eCopy, User Fee
180-Day PMA Supplements	eCopy, User Fee
Real-Time PMA Supplements	eCopy, User Fee
510(k)s (non-Third Party)	eCopy, User Fee
510(k)s (Third Party)	eCopy

Submission Type	Applicable Administrative Requirements
De Novo Classification Requests	eCopy, User Fee
CLIA Waiver by Applications	None
Dual 510(k) and CLIA Waiver by Applications	eCopy, User Fee
Pre-Submissions	eCopy
Priority Original BLAs	eCopy, User Fee
Standard Original BLAs	eCopy, User Fee
BLA Manufacturing Supplements Requiring Prior Approval	eCopy
Priority BLA Efficacy Supplements	eCopy, User Fee
Standard BLA Efficacy Supplements	eCopy, User Fee
Class I Original BLA and BLA Efficacy Supplement Resubmissions	eCopy
Class II Original BLA and BLA Efficacy Supplement Resubmissions	eCopy

**G. Reviewing Center:** Review goal performance data in this report are based on FDA's combined performance on MDUFA submissions reviewed in CDRH and/or CBER, depending on submission type. Details of which Center reviews which submission type are as follows:

Submission Type	Reviewing Center(s)
Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports	CDRH and CBER
180-Day PMA Supplements	CDRH and CBER
Real-Time PMA Supplements	CDRH and CBER
510(k)s	CDRH and CBER
De Novo Classification Requests	CDRH and CBER
CLIA Waiver by Applications	CDRH only
Dual 510(k) and CLIA Waiver by Applications	CDRH only

Submission Type	Reviewing Center(s)
Pre-Submissions	CDRH and CBER
BLAs and BLSS	CBER only

**H. Substantive Interaction:** Substantive Interaction is an email, letter, teleconference, video conference, fax, or other form of communication, such as a request for Additional Information or a Major Deficiency letter, by FDA notifying the applicant of substantive deficiencies identified in the initial submission review, or a communication stating that FDA has not identified any deficiencies in the initial submission review and that any further minor deficiencies will be communicated through interactive review. An approval or clearance letter issued on or prior to the Substantive Interaction goal date will qualify as a Substantive Interaction. If substantive issues warranting issuance of an Additional Information or Major Deficiency letter are not identified, interactive review should be used to resolve any minor issues and facilitate a decision by FDA. In addition, interactive review will be used where, in FDA's estimation, it will lead to a more efficient review process during the initial review cycle (i.e., prior to a Substantive Interaction) to resolve minor issues such as revisions to administrative items (e.g., 510(k) Summary/Statement, Indications for Use statement, environmental impact assessment, financial disclosure statements); a more detailed device description; omitted engineering drawings; revisions to labeling; or clarification regarding nonclinical or clinical study methods or data. Minor issues may still be included in an Additional Information or Major Deficiency letter where related to the resolution of the substantive issues (e.g., a modification of the proposed Indications for Use may lead to revisions in labeling and administrative items) or if these minor issues were still unresolved following interactive review attempts. Both interactive review and Substantive Interactions will occur on the review clock except upon the issuance of an Additional Information or Major Deficiency Letter that stops the review clock.

#### **I. BLA-Related Definitions:**

**Review and act on** – The issuance of a complete response letter after the complete review of a filed complete application. The action letter, if it is not an approval, will set forth in detail the specific deficiencies and, where appropriate, the actions necessary to place the application in condition for approval.

**Class I resubmitted applications** – Applications resubmitted after a complete response letter that includes only the following items (or combinations of these items):

- (a) Final printed labeling
- (b) Draft labeling
- (c) Safety updates submitted in the same format, including tabulations, as the original safety submission with new data and changes highlighted (except when large amounts of new information including important new adverse

experiences not previously reported with the product are presented in the resubmission)

- (d) Stability updates to support provisional or final dating periods
- (e) Commitments to perform Phase 4 studies, including proposals for such studies
- (f) Assay validation data
- (g) Final release testing on the last one or two lots used to support approval
- (h) A minor reanalysis of data previously submitted to the application (determined by the Agency as fitting the Class I category)
- (i) Other minor clarifying information (determined by the Agency as fitting the Class I category)
- (j) Other specific items may be added later as the Agency gains experience with the scheme and will be communicated via guidance documents to industry

**Class II resubmitted applications** – Resubmissions that include any other items, including any item that would require presentation to an advisory committee.

## **Appendix B: Performance Information for De Novo, Section 513(g), and Section 522 Postmarket Device Surveillance Plan Submissions**

On May 5, 2017, the Consolidated Appropriations Act, 2017 (Public Law 115-31), was enacted into law, which provided appropriations under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies bill for the fiscal year ending September 30, 2017. Senate Report 114-259 directed FDA to provide performance information related to medical devices including the extent to which the Agency's responses have met statutory time frames. Specifically, FDA was directed to report (1) the number of De Novo classification requests under section 513(f)(2) of the FD&C Act for which FDA met the statutory requirement and the total number of De Novo classification requests submitted; (2) the total number of requests for classification under section 513(g) and the number that met the statutory requirement; and (3) the number of orders for postmarket device surveillance under a section 522 plan for which FDA responded within 60 days.

The table below provides the requested information in the three categories and includes the percentage of submissions for which FDA met its statutory timelines. This is followed by additional information about each of the three submission types. The number of De Novo classification requests received includes those that passed eCopy requirements (FY 2017) or passed eCopy and user fee requirements (FY 2018 through FY 2021). Note that the 120-day timeline specified in section 513(f)(2) of the FD&C Act, against which the performance data in this Appendix is calculated, is different from the MDUFA IV performance goal for De Novo requests, which is based on a timeline of 150 FDA days. The number of 513(g) submissions received are those that passed user fee requirements.

FDA reports that for FY 2017 through FY 2021, FDA met the statutory timelines for issuing a final decision on a De Novo classification request 21 to 59 percent of the time, responded to 513(g) requests within the statutory time frame 25 to 36 percent of the time, and met the statutory time frame for responding to a section 522 plan 38 to 86 percent of the time.

## Performance Data for Submissions with Statutory Time Frames

Submission Type	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
<b>De Novo Classification Requests Under 513(f)(2)</b>					
Number received that passed applicable administrative requirements	101	56	62	69	63
Number completed with a Granted, Declined, or Withdrawn decision	101	56	62	48	9
Number on which FDA made a Granted, Declined, or Withdrawn decision within the statutory time frame of 120 days*	60	18	21	10	2
Percent that met the statutory time frame <sup>†</sup>	59%	32%	34%	21%	22%
<b>Requests for Information About Classification and Regulatory Requirements Applicable to a Device Type Under 513(g)</b>					
Number received that passed applicable administrative requirements	133	115	132	152	135
Number to which FDA responded within the statutory time frame of 60 days	37	41	47	44	27
Percent that met the statutory time frame <sup>‡</sup>	28%	36%	36%	29%	25%
<b>Postmarket Surveillance Plans</b>					
Number received	14	13	11	28	29
Number of FDA responses within 60 days of receipt	11	5	6	21	25
Percent that met the statutory time frame	79%	38%	55%	75%	86%

\* Other De Novo classification request final decisions include Jurisdiction Transferred.

† This metric is defined as the number of De Novo classification requests with a Granted/Declined/Withdrawn decision within 120 FDA days, as a percentage of the sum of the number of De Novo classification requests with a Granted/Declined/Withdrawn decision plus the number of De Novo classification requests pending a decision longer than 120 FDA days as of the cutoff date.

‡ These data are defined as the number of 513(g)s with a final decision within 60 FDA days, as a percentage of the sum of the number of 513(g)s pending a decision for longer than 60 FDA days as of the cutoff date.

## **Appendix C: Additional Information from FDARA's Section 903 Requirement**

On August 18, 2017, FDARA (Public Law 115-52) was signed into law. FDARA amended the FD&C Act to revise and extend the user fee programs for human drugs, biologics, generic drugs, medical devices, and biosimilar biological products. Section 903 of FDARA requires “additional information” in the annual performance reports of each of the human medical product user fee programs. Specifically, section 903(b)(2) of FDARA requires the MDUFA annual performance report to include the following (for CDRH only and starting in FY 2018):

- (I) The number of premarket applications filed under section 515 per fiscal year for each review division;
- (II) The number of reports submitted under section 510(k) per fiscal year for each review division; and
- (III) The number of expedited development and priority review designations under section 515C per fiscal year.

The information below fulfills these requirements.

### **Number of Premarket Applications Filed and Reports Submitted**

The table below addresses the requirements of section 738A(a)(1)(A)(ii) of the FD&C Act as added by section 903(b)(2) of FDARA. Specifically, the table provides “the number of premarket applications filed under section 515 per fiscal year for each review division” and “the number of reports submitted under section 510(k) per fiscal year for each review division,” referred to in the table as the “MDUFA Cohort.”

Relevant information about the MDUFA cohort numbers provided below is as follows:

- “Premarket applications filed under section 515” are defined as submissions reviewed as Original PMAs, PDPs, Panel-Track PMA Supplements, 180-Day PMA Supplements, Real-Time PMA Supplements, or Premarket Reports that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. This definition is consistent with the interpretation of identical statutory language in section 904 of FDARA and is addressed in other sections of this report.
- “Reports submitted under section 510(k)” are defined as submissions reviewed as Premarket Notifications (510(k)s) (including those reviewed as Third Party 510(k) submissions) that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. This definition is consistent with the interpretation of identical statutory language in section 904 of FDARA and is addressed in other sections of this report.
- In performance reports for FY 2018 and FY 2019, “each review division” was defined as each of the divisions within CDRH’s Office of Device Evaluation and Office of In Vitro Diagnostics and Radiological Health (OIR). In performance

reports for FY 2020 and later, “each review division” is defined as each of the Offices of Health Technology (OHTs) within CDRH’s Office of Product Evaluation and Quality (OPEQ). OPEQ and OHTs were established as part of CDRH’s 2019 reorganization,<sup>9</sup> which was completed on September 30, 2019. For this report, the OHTs within OPEQ are roughly equivalent to the “review divisions” that existed (and were reported on) in FY 2018 through FY 2019. This definition is also consistent with the interpretation of similar statutory language in other parts of section 903 of FDARA and addressed in other sections of this report.

- Consistent with other parts of this report, the MDUFA cohort is based on a fiscal year receipt cohort. Until all submissions in a cohort are closed, a preliminary number is provided for that cohort and is subject to change.
- Also consistent with other parts of this report, submissions that were closed without a MDUFA decision are not included in the MDUFA cohort and, therefore, are not included in the table below. For the number of submissions received that have passed applicable, preliminary administrative requirements (e.g., eCopy, User Fee) regardless of whether closed with or without a MDUFA decision, please refer to the review workload tables in other sections of this report.
- As stipulated in FDARA, the numbers below include only submissions reviewed by CDRH and do not include submissions reviewed by CBER. This is different from other parts of this report, where the MDUFA cohort includes submissions from both CDRH and CBER.

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<sup>9</sup> See “Reorganization of the Center for Devices and Radiological Health” (<https://www.fda.gov/about-fda/center-devices-and-radiological-health/reorganization-center-devices-and-radiological-health#changes>).

## FY 2021 MDUFA Cohorts by CDRH's OHTs

Submission Type	MDUFA Cohort (CDRH only)	OHT1	OHT2	OHT3	OHT4	OHT5	OHT6	OHT7*
<b>Original PMA, PDP, Panel-Track PMA Supplements, and Premarket Reports</b>								
Substantive Interaction	66	7	18	4	5	8	2	22
Decision with No Advisory Committee Input	64	7	18	4	4	8	2	21
Decision with Advisory Committee Input	2	0	0	0	1	0	0	1
<b>180-Day PMA Supplements</b>								
Substantive Interaction	180	14	87	19	15	20	4	21
Decision	179	14	87	18	15	20	4	21
<b>Real-Time PMA Supplements</b>								
Decision	276	21	147	14	13	22	3	56
<b>510(k) Premarket Notifications</b>								
Substantive Interaction	3183	374	337	379	797	213	507	576
Decision	3229	367	349	379	811	219	502	602

\* This office is sometimes referred to as OIR.

## Number of Expedited Development and Priority Review Designations

The table below addresses the requirements of section 738A(a)(1)(A)(ii)(III) of the FD&C Act as added by section 903(b)(2) of FDARA. Specifically, the table provides “the number of expedited development and priority review designations under section 515C [actually 515B] per fiscal year,” referred to in the table as the “Number of Breakthrough Device Designations.”

Relevant information about the Breakthrough Device Designation numbers provided below is as follows:

- The number of breakthrough device designations represents the number of designation requests granted as of September 30, 2021, in the relevant fiscal year receipt cohort. Until all submissions in a cohort are closed, a preliminary number is provided for that cohort and is subject to change.
- As stipulated in FDARA, the numbers below include only designation requests reviewed by CDRH and do not include those reviewed by CBER.

### CDRH Breakthrough Device Designations

Cohort	Number of Breakthrough Device Designations
FY 2018	62
FY 2019	120
FY 2020	147
FY 2021	187*
FY 2022	†

\*As of September 30, 2021, the FY 2021 cohort was 85 percent closed.

† As of September 30, 2021, the fiscal year had not yet begun but will be included in future reports.

## **Appendix D: Analysis of Use of Funds**

On August 18, 2017, FDARA (Public Law 115-52) was signed into law. FDARA amended the FD&C Act to revise and extend the user fee programs for human drugs, biologics, generic drugs, medical devices, and biosimilar biological products. FDARA requires specified analyses of the use of funds in the annual performance reports of each of the human medical product user fee programs. These analyses are to include information such as differences between aggregate numbers of submissions and certain types of decisions, an analysis of performance goals, and a determination of causes affecting the ability to meet goals.

Section 904 of FDARA requires the issuance of corrective action reports. The required corrective action report is provided in Appendix E. The remaining required information is below.

### **Analysis of Use of Funds**

FDARA requires that the analysis of use of funds include information on (I) the differences between aggregate numbers of submissions and certain types of decisions, (II) an analysis of performance goals, and (III) a determination of causes affecting the ability to meet goals. These data are contained below.

#### **Differences Between Aggregate Numbers**

The following table addresses section 738A(a)(1)(A)(v)(I) of the FD&C Act as added by section 904(b)(1) of FDARA, pertaining to MDUFA, which requires FDA to include (beginning in FY 2018) data showing “[t]he difference between the aggregate number of premarket applications filed under section 515 and aggregate reports submitted under section 510(k) and the aggregate number of major deficiency letters, not approvable letters, and denials for such applications issued by the Agency, accounting for -

- (aa) the number of applications filed, and reports submitted during one fiscal year for which a decision is not scheduled to be made until the following fiscal year; and
- (bb) the aggregate number of applications for each fiscal year that did not meet the goals as identified by the letters described in section 201(b) of the Medical Device User Fee Amendments of 2017 for the applicable fiscal year.

The table below provides the data required above for the applicable fiscal year as well as additional data necessary to interpret it. Relevant information about the data provided is as follows:

- *MDUFA Cohort [A]* = “aggregate number of premarket applications filed under section 515 and aggregate reports submitted under section 510(k).” The MDUFA Cohort [A] includes both Completed [B] and Pending [F] submissions ( $[A] = [B] + [F]$ ). “Premarket applications filed under section 515” are defined as submissions

reviewed as Original PMAs, PDPs, Panel-Track PMA Supplements, 180-Day PMA Supplements, Real-Time PMA Supplements, or Premarket Reports that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. “Aggregate reports submitted under section 510(k)” are defined as submissions reviewed as Premarket Notifications (510(k)s) (including those reviewed as Third Party 510(k) submissions) that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. This definition is consistent with the interpretation of identical statutory language in section 903 of FDARA and is addressed in other sections of this report.

- Consistent with other parts of this report, the MDUFA cohort is based on a fiscal year receipt cohort. Until all submissions in a cohort are closed, a preliminary number is provided for that cohort and is subject to change.
- Also consistent with other parts of this report, submissions that were closed without a MDUFA decision are not included in the MDUFA cohort and, therefore, are not included in the table below. For the number of submissions received that have passed applicable, preliminary administrative requirements (e.g., eCopy, User Fee) regardless of whether closed with or without a MDUFA decision, please refer to the review workload tables in other sections of this report.
- *Completed [B]* = the number of submissions with a MDUFA action as of September 30, 2021. Completed [B] includes both Completed Within Goal [C] and Completed Overdue [D] submissions ( $[B] = [C] + [D]$ ).
- *Completed Within Goal [C]* = the number of Completed [B] submissions that had met the MDUFA goal as of September 30, 2021.
- *Completed Overdue [D]* = the number of Completed [B] submissions that had not met the MDUFA goal as of September 30, 2021.
- *Major deficiency letters, not approvable letters, denials [E]* = “aggregate number of major deficiency letters, not approvable letters, and denials for such applications issued by the [A]gency” and represents the number of times Completed [B] submissions had this specific action (or equivalent) for each MDUFA goal. Specific actions relevant to each MDUFA goal and submission type are as follows:

Submission Type	Relevant Specific Action
<b>Original PMA, PDPs, Panel-Track PMA Supplements, and Premarket Reports</b>	
Substantive Interaction	Major deficiency letter
Decision with No Advisory Committee Input	Not Approvable or Denial
Decision with Advisory Committee Input	Not Approvable or Denial
<b>180-Day PMA Supplements</b>	
Substantive Interaction	Major deficiency letter
Decision	Not Approvable or Denial
<b>Real-Time PMA Supplements</b>	
Decision	Not Approvable or Denial
<b>510(k) Premarket Notifications</b>	
Substantive Interaction	Additional Information Request
Decision	Not Substantially Equivalent

- *Pending [F]* = “(aa) the number of applications filed, and reports submitted during one fiscal year for which a decision is not scheduled to be made until the following fiscal year.” Pending [F] includes both Pending Within Goal [G] and Pending Overdue [H] submissions ( $[F] = [G] + [H]$ ).
- *Pending Within Goal [G]* = the number of Pending [F] submissions that had met the goal as of September 30, 2021.
- *Pending Overdue [H]* = the number of Pending [F] submissions that had not met the goal as of September 30, 2021.
- *Overdue (completed + pending) [I]* = “(bb) the aggregate number of applications for each fiscal year that did not meet the goals as identified by the letters described in section 201(b) of MDUFA IV for the applicable fiscal year” and represents the number of submissions that had not met the MDUFA goal as of September 30, 2021. Overdue [I] includes both Completed Overdue [D] and Pending Overdue [H] submissions ( $[I] = [D] + [H]$ ).

## FY 2021 Differences Between Aggregate Numbers

Submission Type	MDUFA cohort [A]	Completed [B]	Completed Within Goal [C]	Completed Overdue [D]	"Major deficiency letters, not approvable letters, denials" [E]	Pending [F]	Pending Within Goal [G]	Pending Overdue [H]	Overdue (completed + pending) [I]
<b>Original PMA, PDP, Panel-Track Supplements, and Premarket Reports</b>									
Substantive Interaction	67	51	47	4	38	16	9	7	11
Decision with No Advisory Committee Input	65	17	16	1	0	48	44	4	5
Decision with Advisory Committee Input	2	1	1	0	0	1	1	0	0
<b>180-Day PMA Supplements</b>									
Substantive Interaction	187	128	107	21	64	59	56	3	24
Decision	186	78	74	4	0	108	102	6	10
<b>Real-Time PMA Supplements</b>									
Decision	285	236	230	6	9	49	49	0	6
<b>510(k)</b>									
Substantive Interaction*	3,222	2665	2,416	249	1,710	557	488	69	318
Decision*	3,268	1679	1,607	72	33	1589	1,461	128	200

\* Third Party 510(k)s have a Decision but do not have a Substantive Interaction review phase. As such, both Third Party and non-Third Party 510(k)s are included in the Decision data, but only non-Third Party 510(k)s are included in Substantive Interaction data.

## Performance Enhancement Goals

The following table addresses section 738A(a)(1)(A)(v)(II) of the FD&C Act as added by section 904(b)(1) of FDARA, pertaining to MDUFA, which requires FDA to include relevant data to determine whether CDRH has met performance enhancement goals identified in the letters described in section 201(b) of MDUFA IV for the applicable fiscal year.

For this report, “performance enhancement goals” are defined as any non-review goal described in the MDUFA IV commitment letter with a specified goal date that falls within the applicable fiscal year. All goals that meet this definition for this fiscal year are summarized below.

In summary, FDA had eight performance enhancement goals with required completion dates in FY 2021. All goals have been completed, and all were completed on time.

## FY 2021 Performance Enhancement Goals

Performance Enhancement Goal	Target Goal Date	On Time (Y/N)	Date Goal Met	Comments
<b>Infrastructure<sup>†</sup></b>				
<b>Quality Management</b> – The Agency will discuss with industry the specific areas it intends to incorporate in its ongoing audit plan. FDA will identify, with industry input, areas to audit, which will include the effectiveness of CDRH's Corrective and Preventive Action process.	9/30/2021	Y	12/21/2020	<p>FDA and industry communicated about areas of interest for its ongoing audit plan in Q1 and Q2 of FY 2021. FDA incorporated this feedback, along with other information, to identify areas to audit.</p> <ul style="list-style-type: none"> <li>• <b>Two audits</b> examined Pre-Submissions. Of note, this is in addition to one Pre-Submission audit completed in FY 2020 and reported in the FY 2020 Performance Report.</li> <li>• <b>One audit</b> examined Least Burdensome training.</li> <li>• <b>Eight audits</b> examined CDRH's quality management. <b>Results:</b> Overall, it appears that the quality management system is functioning as intended. This finding was further verified through an external ISO 9001:2015 surveillance audit by a certifying body. There were no nonconformities to address.</li> </ul> <p>An independent assessment was also completed in FY 2021. See additional information below.</p>
<b>IT Infrastructure for Submission Management</b> – No later than 12 months after the close of the public comment period on the draft guidance, the Agency will issue a final guidance on the use of electronic submission templates.	11/25/2020*	Y	7/15/2020	<p>FDA published a final guidance document, titled "Providing Regulatory Submissions for Medical Devices in Electronic Format – Submissions Under Section 745A(b) of the FD&amp;C Act," on 7/15/2020 (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab</a>).</p> <p>This guidance document provides a process for the development of templates to facilitate the preparation, submission, and review of regulatory submissions, solely in electronic format, for medical devices.</p>
<b>IT Infrastructure for Submission Management</b> - FDA will implement the guidance on the use of electronic submission templates once final.	9/30/2021*	Y	9/29/2021	<p>As described in the final guidance document cited above ("Providing Regulatory Submissions for Medical Devices in Electronic Format – Submissions Under Section 745A(b) of the FD&amp;C Act"), FDA plans to implement the guidance on the use of electronic submission templates with individual guidances specifying the formats for specific submissions and the corresponding timetables for implementation.</p> <p>On 9/29/2021, FDA published the draft guidance document; the draft is titled "Electronic Submission template for Medical Device 510(k) Submissions" (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/electronic-submission-template-medical-device-510k-submissions">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/electronic-submission-template-medical-device-510k-submissions</a>).</p>

\* "Target goal date" is not explicitly defined in the MDUFA IV commitment letter but is implied based on another commitment happening first.

<sup>†</sup> Performance enhancement goals described in section III ("Infrastructure") of the MDUFA IV commitment letter.

## FY 2021 Performance Enhancement Goals (continued)

Performance Enhancement Goal	Target Goal Date	On Time (Y/N)	Date Goal Met	Comments
<b>Infrastructure<sup>†</sup></b>				
<b>Fee Setting, Fee Collections, and Workload</b> - If the collections are in excess of the resources needed to meet performance goals given the workload, or in excess of inflation-adjusted statutory revenue targets, FDA and industry will work together to assess how best to utilize those resources to improve performance on submission types with performance goals and/or quality management programs, using, as input for the discussion: workload information, performance objectives and ongoing reported performance.	09/30/2021	Y	09/30/2021	As reported in the FY 2020 MDUFA Financial Report (see <a href="https://www.fda.gov/about-fda/user-fee-financial-reports/mdufa-financial-reports">https://www.fda.gov/about-fda/user-fee-financial-reports/mdufa-financial-reports</a> ), FY 2020 <sup>10</sup> total collections less unearned revenue equaled \$289,153,177 in funding available for use compared to the inflation-adjusted statutory revenue target of \$220,142,000. This resulted in excess revenue for the year, in the amount of \$69,011,177, that could be utilized. Discussions on the use of this excess funding occurred in FY 2021 as part of the MDUFA V Negotiations and will continue in FY 2022.

<sup>†</sup> Performance enhancement goals described in section III ("Infrastructure") of the MDUFA IV commitment letter.

<sup>10</sup> The FY 2020 Annual Report included a summary of the FY 2018 excess collections but inadvertently omitted a summary of FY 2019 excess collections. As reported in the FY 2019 MDUFA Financial Report (see <https://www.fda.gov/media/136034/download>), FY 2019 total collections less unearned revenue equaled \$200,136,389 in funding available for use compared to the inflation-adjusted statutory revenue target of \$204,730,000. This did not result in excess revenue for the year that could be utilized. Therefore, a discussion of the use of excess funding was not necessary.

## FY 2021 Performance Enhancement Goals (continued)

Performance Enhancement Goal	Target Goal Date	On Time (Y/N)	Date Goal Met	Comments
<b>Program and Process Implementation<sup>‡</sup></b>				
<b>Enhanced Use of Consensus Standards</b> – FDA will provide an annual report on the progress of the Accreditation Scheme for Conformity Assessment (ASCA) program.	1/31/2021	Y	1/25/2021	FDA published the calendar year 2020 annual report on the progress of the ASCA program on 1/25/2021 ( <a href="https://www.fda.gov/media/145419/download">https://www.fda.gov/media/145419/download</a> ).
<b>Enhanced Use of Consensus Standards</b> – FDA will issue final guidance to establish a process for the accreditation of Accrediting Bodies (ABs) and to accredit Test Laboratories (TLs) within 12 months post initiation of the pilot.	9/25/2021	Y	9/25/2020	<p>As reported in the FY 2020 Performance Report, the official launch of the ASCA pilot occurred when FDA published three final guidance documents that outline details of the ASCA Pilot program operations. FDA published these guidances on 9/25/2020.</p> <ol style="list-style-type: none"> <li>1. “The Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program” final guidance document (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/accreditation-scheme-conformity-assessment-asca-pilot-program">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/accreditation-scheme-conformity-assessment-asca-pilot-program</a>);</li> <li>2. “Basic Safety and Essential Performance of Medical Electrical Equipment, Medical Electrical Systems, and Laboratory Medical Equipment – Standards Specific Information for the Accreditation Scheme Conformity Assessment (ASCA) Pilot Program” final guidance document (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/basic-safety-and-essential-performance-medical-electrical-equipment-medical-electrical-systems-and">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/basic-safety-and-essential-performance-medical-electrical-equipment-medical-electrical-systems-and</a>); and</li> <li>3. “Biocompatibility Testing of Medical Devices – Standards Specific Information for the Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program” final guidance document (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/biocompatibility-testing-medical-devices-standards-specific-information-accreditation-scheme">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/biocompatibility-testing-medical-devices-standards-specific-information-accreditation-scheme</a>).</li> <li>4. See also the ASCA web page at <a href="https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/accreditation-scheme-conformity-assessment-asca">https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/accreditation-scheme-conformity-assessment-asca</a>. Information for the Accreditation Scheme Conformity Assessment (ASCA) Pilot Program” final guidance document (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/basic-safety-and-essential-performance-medical-electrical-equipment-medical-electrical-systems-and">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/basic-safety-and-essential-performance-medical-electrical-equipment-medical-electrical-systems-and</a>); and</li> <li>5. “Biocompatibility Testing of Medical Devices – Standards Specific Information for the Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program” final guidance document (see <a href="https://www.fda.gov/regulatory-information/search-fda-guidance-documents/biocompatibility-testing-medical-devices-standards-specific-information-accreditation-scheme">https://www.fda.gov/regulatory-information/search-fda-guidance-documents/biocompatibility-testing-medical-devices-standards-specific-information-accreditation-scheme</a>).</li> </ol> <p>See also the ASCA web page at <a href="https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/accreditation-scheme-conformity-assessment-asca">https://www.fda.gov/medical-devices/standards-and-conformity-assessment-program/accreditation-scheme-conformity-assessment-asca</a>.</p>

<sup>‡</sup> Performance enhancement goals described in Section II (“Review Performance Goals”) and IV (“Process Improvements”) of the MDUFA IV commitment letter.

## FY 2021 Performance Enhancement Goals (continued)

Performance Enhancement Goal	Target Goal Date	On Time (Y/N)	Date Goal Met	Comments
<b>Program and Process Assessments<sup>§</sup></b>				
Independent Assessment of Review Process Management (Phase 2) – The contractor will not begin the audit of deficiency letters and Pre-Submissions before 10/1/2020. The contractor will publish comprehensive findings and recommendations within 1 year.	10/01/2021*	Y	9/30/2021	<p>The contractor issued a final report, titled "MDUFA IV Independent Assessment-Final Report," on 9/30/2021 (see <a href="https://www.fda.gov/media/152594/download">https://www.fda.gov/media/152594/download</a>).</p> <p>In summary, the contractor reviewed 11 general areas for assessment across over 50 specific topics.</p> <ul style="list-style-type: none"> <li>• <b>Premarket review efficiencies:</b> Evaluate FDA's premarket review program to identify efficiencies that have been realized as a result of process improvements and investments under MDUFA III and IV</li> <li>• <b>Infrastructure and FTE allocations:</b> Evaluate the premarket review program's infrastructure and allocation of FTEs; specifically assess the hiring of FTEs as agreed to in MDUFA III and IV commitments</li> <li>• <b>Training and alignment:</b> Assess the alignment of resource needs with the training and expertise of hires</li> <li>• <b>Quality management program:</b> Assess the effectiveness of the quality management program</li> <li>• <b>Deficiencies:</b> Assess the proportion of deficiencies in which FDA references the basis for the deficiency determination</li> <li>• <b>Pre-submission program:</b> Assess CDRH's Pre-Submission program</li> <li>• <b>Third Party Review program:</b> Assess the efficiency of the Third-Party Review program and suggest process improvements</li> <li>• <b>Digital health program:</b> Assess the effectiveness of the digital health program</li> <li>• <b>Patient science and engagement program:</b> Assess the effectiveness of the patient engagement program</li> <li>• <b>Real-world evidence:</b> Assess the effectiveness of the real-world evidence program</li> <li>• <b>Special 510(k) conversions:</b> Analyze conversions of Special 510(k)s to Traditional 510(k)s</li> </ul> <p>Overall, the contractor found that for 10 of the 11 areas assessed, FDA met the commitments within the MDUFA IV commitment letter. The one commitment yet to be met, was the issuance of the guidance document titled "Content of Premarket Submissions for Software Contained in a Medical Device". The contractor recommended that FDA continue efforts to issue that draft guidance<sup>#</sup>. On November 4, 2021, FDA published the updated guidance document.<sup>11</sup></p>

<sup>§</sup> Performance enhancement goals described in section V ("Independent Assessment of Review Process Management") of the MDUFA IV commitment letter.

# This performance enhancement goal was reported in the FY 2020 MDUFA Annual Report.

<sup>11</sup> The draft guidance document, titled "Content of Premarket Submissions for Software Contained in a Medical Device," was published on November 4, 2021 (<https://www.fda.gov/regulatory-information/search-fda-guidance-documents/content-premarket-submissions-device-software-functions>).

## Common Causes and Trends Impacting the Ability to Meet Goals

The following tables address section 738A(a)(1)(A)(v)(III) of the FD&C Act as added by section 904(b)(1) of FDARA, pertaining to MDUFA, which requires FDA to identify the most common causes and trends of external or other circumstances affecting the ability of CDRH, the Office of Regulatory Affairs (ORA), or FDA to meet the review time and performance enhancement goals identified in the letters described in section 201(b) of MDUFA IV.

### FY 2021 Goals

As indicated in other sections of this report, FDA received sufficient FY 2021 submissions to calculate performance for 13 of the 25 MDUFA IV review goals and had eight performance enhancement goals due in FY 2021. As of September 30, 2021, for those 13 review goals, one review goal was sufficiently complete to determine the outcome and was met, four review goals were sufficiently complete to determine the outcome and were missed, and eight review goals are pending (i.e., FDA has the potential to meet each goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome). Also as of September 30, 2021, eight (of the eight) performance enhancement goals were met.

With four missed goals but eight still pending (of the 25 FY 2021 review and performance enhancement goals), it is clear that, for the reasons described below, the COVID-19 pandemic has impacted the ability of CDRH, ORA, or FDA to meet all the goals.

In FY 2020 and FY 2021, FDA responded to the unprecedented COVID-19 public health emergency. In FY 2020 and FY 2021, FDA experienced a 31 percent and 20 percent increase, respectively, in the total premarket submission volume compared to the pre-pandemic (FY 2019) work volumes. Since the beginning of the emergency, FDA has received over 8,000 medical device emergency use authorization (EUA) and pre-EUA submissions. FDA has authorized a 15-fold increase in medical device EUAs over those issued in all prior public health emergencies combined. FDA helped facilitate the development and availability of COVID-19 tests and collection kits, personal protective equipment (PPE) to help control the spread of the disease, and ventilators and other devices for treating COVID-19-related symptoms. Since the start of the emergency, FDA has issued EUAs or granted full marketing authorization to more than 1,800 medical devices for COVID-19. In addition, FDA conducted the timely review of more than 2 million medical device adverse event reports and completed other pivotal work activities such as addressing supply chain shortages and counterfeit products related to COVID-19. Despite prioritizing COVID-19-related work, FDA still worked to meet the MDUFA commitments. Meeting all MDUFA commitments remains FDA's goal, and the Agency is taking critical steps to improve performance, when possible, relative to the FY 2021 cohort.

If, at the end of future fiscal years, the FY 2021 review goal cohorts are sufficiently closed and data indicate that FDA has missed additional FY 2021 goals, FDA will provide an update to the required information in future reports.

For a description of FY 2021 corrective efforts, see Appendix E below.

Cause or Trend	Impact on FDA's Ability to Meet Goals
<i>COVID-19 Public Health Emergency. FDA will provide additional information in future reports as necessary.</i>	<i>See the text above for a description of how the COVID-19 public health emergency impacted FDA's ability to meet the four review goals missed in FY 2021. See Appendix E for a description of FDA's corrective efforts. FDA will provide additional information in future reports as necessary.</i>

### **FY 2020 Goals (Updated)**

As indicated in other sections of this report and the FY 2020 report, FDA received sufficient FY 2020 submissions to calculate performance for 16 of the 25 MDUFA IV review goals and had 10 performance enhancement goals due in FY 2020. As of September 30, 2021, for those 16 review goals, six review goals were sufficiently complete to determine the outcome and were met, three review goals were sufficiently complete to determine the outcome and were missed, and seven review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome). Also as of September 30, 2021, for those 10 performance enhancement goals, nine performance enhancement goals were met and one performance enhancement goal was missed.

With four missed goals but eight still pending (of the 26 FY 2020 review and performance enhancement goals), it is clear that, for the reasons described below, the COVID-19 pandemic has impacted the ability of CDRH, ORA, or FDA to meet all the goals.

In FY 2020 and FY 2021, FDA responded to the unprecedented COVID-19 public health emergency. In FY 2020 and FY 2021, FDA experienced a 31 percent and 20 percent increase, respectively, in the total premarket submission volume compared to the pre-pandemic (FY 2019) work volumes. Since the beginning of the emergency, FDA has received over 8,000 medical device EUA and pre-EUA submissions. FDA has authorized a 15-fold increase in medical device EUAs over those issued in all prior public health emergencies combined. FDA helped facilitate the development and availability of COVID-19 tests and collection kits, PPE to help control the spread of the disease, and ventilators and other devices for treating COVID-19 related symptoms. Since the start of the emergency, FDA has issued EUAs or granted full marketing authorization to more than 1,800 medical devices for COVID-19. In addition, FDA conducted the timely review of more than 2 million medical device adverse event reports and completed other pivotal work activities such as addressing supply chain shortages and counterfeit products related to COVID-19. Despite prioritizing COVID-19-related work, FDA still worked to meet the MDUFA commitments. Meeting all MDUFA commitments remains FDA's goal, and the Agency is taking critical steps to improve performance, when possible, relative to the FY 2020 cohort.

If, at the end of future fiscal years, the FY 2020 review goal cohorts are sufficiently closed and data indicate that FDA has missed additional FY 2020 goals, FDA will provide an update to the required information in future reports.

For a description of FY 2021 corrective efforts, see Appendix E below.

For a summary of the types of circumstances and trends impacting FDA's ability to meet the one FY 2020 performance enhancement goal missed in FY 2020 and a description of FY 2020 corrective efforts, see Appendix E of the FY 2020 Performance Report.

Cause or Trend	Impact on FDA's Ability to Meet Goals
<i>COVID-19 Public Health Emergency. FDA will provide additional information in future reports as necessary.</i>	<i>See the text above for a description of how the COVID-19 public health emergency impacted FDA's ability to meet three FY 2020 review goals missed in FY 2021. See Appendix E for a description of FDA's corrective efforts. FDA will provide additional information in future reports as necessary.</i>

## FY 2019 Goals (Updated)

As indicated in other sections of this report, the FY 2020 report, and the FY 2019 report, FDA received sufficient FY 2019 submissions to calculate performance for 17 of the 25 MDUFA IV review goals and had 12 performance enhancement goals due in FY 2019. As of September 30, 2021, for those 17 review goals, 15 review goals were sufficiently complete to determine the outcome and were met, one review goal was sufficiently complete to determine the outcome and was missed, and one review goal is pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome). Also as of September 30, 2021, for those 12 performance enhancement goals, 10 performance enhancement goals were met and two performance enhancement goals were missed.

With three missed goals but one still pending (of the 29 FY 2019 review and performance enhancement goals), FDA has evaluated the three missed goals but have not identified common causes and trends affecting the ability of CDRH, ORA, or FDA to meet these missed goals. If, at the end of future fiscal years, the one pending FY 2019 review goal is missed, FDA will provide the required information in future reports.

For a summary of the types of circumstances and trends impacting FDA's ability to meet the one FY 2019 shared outcome goal missed in FY 2021 and a description of the FY 2021 corrective efforts, see Appendix E below.

For a summary of the types of circumstances and trends impacting FDA's ability to meet the two FY 2019 performance enhancement goals missed in FY 2019 and a description of the FY 2019 corrective efforts, see Appendix F of the FY 2019 Performance Report.

Cause or Trend	Impact on FDA's Ability to Meet Goals
<i>No common cause or trend identified. FDA will provide additional information in future reports as necessary.</i>	<i>Not applicable. FDA will provide additional information in future reports as necessary.</i>

## **Appendix E: FY 2021 Corrective Action Report**

On August 18, 2017, FDARA (Public Law 115-52) was signed into law. FDARA amended the FD&C Act to revise and extend the user fee programs for human drugs, biologics, generic drugs, medical devices, and biosimilar biological products. Among the provisions of Title IX, section 904 of FDARA requires FDA to publicly issue a corrective action report that details FDA's progress in meeting the review and performance enhancement goals identified in MDUFA IV for the applicable fiscal year.

If the Secretary of Health and Human Services determines, based on the analysis presented in the MDUFA annual performance report, that each of the review and performance enhancement goals for the applicable fiscal year have been met, the corrective action report shall include recommendations on ways in which the Secretary can improve and streamline the medical device application review process.

If the Secretary determines, based on the analysis presented in the MDUFA annual report, that any review or performance enhancement goals for the applicable fiscal year were not met, the corrective action report shall include a justification, as applicable, for the types of circumstances and trends that contributed to missed review goal times; and with respect to performance enhancement goals that were not met, a description of the efforts FDA has put in place to improve the ability of the Agency to meet each goal in the coming fiscal year. Such a description of corrective efforts is not required by statute for review time goals, but FDA is providing this information, regardless, in an effort to be complete. For review time goals (but not performance goals), the corrective action report shall also include a "description of the types of circumstances, in the aggregate, under which applications or reports submitted under section 515 or notifications submitted under section 510(k) missed review time goals but were approved during the first cycle review, as applicable."

This report satisfies this reporting requirement in section 738A(a)(2) of the FD&C Act as added by section 904(b)(2) of FDARA.

# Executive Summary

## FY 2021 Review Goal Performance

Goal Type	Circumstances and Trends Impacting FDA's Ability to Meet Goals	Corrective Action Plan
Review Goals	<p>FDA received enough FY 2021 submissions to calculate performance for 13 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 13 review goals, one review goal was sufficiently complete to determine the outcome and was met, eight review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome), and four review goals were sufficiently complete to determine the outcome and were missed, including the following: Substantive Interaction for Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports; Substantive Interaction for 180-Day PMA Supplements; Substantive Interaction for 510(k) Premarket Notifications; and Final Decision for 510(k) Premarket Notifications.</p> <p>See the discussion on the impact of the COVID-19 public health emergency on FDA's workload in Appendix D and in the "Justification" section below. In FY 2021, FDA prioritized the review of EUAs and other activities to respond to the COVID-19 pandemic. This shifting of resources significantly impacted FDA's ability to meet MDUFA review goals.</p> <p>As for the types of circumstances, in the aggregate, under which relevant submissions missed review time goals but were approved during the first cycle review, submissions in the relevant cohorts are still pending so it is too soon to assess the missed review goals in aggregate. FDA will provide this information, in subsequent corrective action reports, once all relevant FY 2021 cohorts are sufficiently complete.</p>	<p>FDA has missed four FY 2021 review goals. As the COVID-19 pandemic has evolved, the volume of new EUA submissions has begun to lessen in non-in vitro diagnostic (IVD) offices, allowing FDA to reprioritize review efforts to MDUFA work in those non-IVD offices.</p>

## FY 2020 Review Goal Performance (Updated)

Goal Type	Circumstances and Trends Impacting FDA's Ability to Meet Goals	Corrective Action Plan
Review Goals	<p>FDA received enough FY 2020 submissions to calculate performance for 16 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 16 review goals, six review goals were sufficiently complete to determine the outcome and were met, seven review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome), and three review goals were sufficiently complete to determine the outcome and were missed, including the following: Substantive Interaction for 180-Day PMA Supplements, Substantive Interaction for 510(k) Premarket Notifications, and Dual 510(k) and CLIA Waiver by Applications: Decision with No Advisory Committee Input.</p> <p>See the discussion on the impact of the COVID-19 public health emergency on FDA's workload in Appendix D and in the "Justification" section below. In FY 2021, FDA prioritized the review of EUAs and other activities to respond to the COVID-19 pandemic. This shifting of resources significantly impacted FDA's ability to meet MDUFA review goals.</p> <p>As for the types of circumstances, in the aggregate, under which relevant submissions missed review time goals but were approved during the first cycle review, submissions in the relevant cohorts are still pending so it is too soon to assess the missed goals in aggregate. FDA will provide this information, in subsequent corrective action reports, once all relevant FY 2020 cohorts are sufficiently complete.</p>	<p>FDA has missed three FY 2020 review goals. As the COVID-19 pandemic has evolved, the volume of new EUA submissions has begun to lessen in non-IVD offices, allowing FDA to reprioritize review efforts to MDUFA work in non-IVD offices.</p>

## FY 2019 Review Goal Performance (Updated)

Goal Type	Circumstances and Trends Impacting FDA's Ability to Meet Goals	Corrective Action Plan
Review Goals	<p>FDA received enough FY 2019 submissions to calculate performance for 17 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 17 review goals, 15 review goals were sufficiently complete to determine the outcome and were met, one review goal is pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome), and one review goal was sufficiently complete to determine the outcome and was missed—namely, the 510(k) shared outcome goal for TTD.</p> <p>FDA and industry share two review goals; one of which was met and one of which was not met for the FY 2019 cohort. The shared TTD goal for 510(k) submissions for FY 2019 was 120 days. The actual FY 2019 performance was 128 days.</p> <p>As the TTD goal is shared between FDA and industry, FDA has identified areas to address the growing submission volumes and increase review efficiency.</p> <p>One (of the 3,775) 510(k) submissions missed a review time goal but was approved during the first cycle review. For this submission, FDA determined that working with the applicant interactively (instead of sending a request for Additional Information) would be the least burdensome way to resolve all deficiencies.</p>	<p>FDA and industry missed one FY 2019 shared outcome goal (i.e., a 510(k) TTD). As this is a shared goal that is influenced by a variety of factors, FDA has taken multiple steps to modernize the 510(k) program to enhance efficiency, consistency, and transparency in the review process for both industry and FDA, including the following improvements:</p> <p>Process and programmatic improvements:</p> <ul style="list-style-type: none"> <li>• Enhancement of the Special 510(k) program</li> <li>• Creation of the Safety and Performance Based Pathway for the 510(k) program</li> <li>• 510(k) Third Party Program enhancements</li> </ul> <p>Technology-based improvements:</p> <ul style="list-style-type: none"> <li>• Electronic templates for consistent 510(k) submission (eSTAR)</li> </ul>

## FY 2021 Performance Enhancement Goal Performance

Goal Type	Circumstances and Trends Impacting FDA's Ability to Meet Goals	Corrective Action Plan
Program and Process Implementation	FDA had eight performance enhancement goals in FY 2021, all of which were completed on time.	FDA did not miss any FY 2021 performance enhancement goals. No corrective action is needed.

## ***MDUFA Review Goals***

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The following section addresses section 738A(a)(2)(B)(i) through (iii) of the FD&C Act as added by section 904(b)(2) of FDARA, which requires that, if the Secretary determines that any review or performance enhancement goals for the applicable fiscal year were not met, FDA provide a justification for the determination of review goals missed and a description of the circumstances and any trends related to missed review goals, including “a description of the types of circumstances, in the aggregate, under which applications or reports submitted under section 515 or notifications submitted under section 510(k) missed review time goals but were approved during the first cycle review, as applicable.” For this latter requirement, relevant information about what is provided below is as follows:

- “Applications or reports submitted under section 515” are defined as submissions reviewed as Original PMAs, PDPs, Panel-Track PMA Supplements, 180-Day PMA Supplements, Real-Time PMA Supplements, or Premarket Reports that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. “Notifications submitted under section 510(k)” are defined as submissions reviewed as Premarket Notifications (510(k)s) (including those reviewed as Third Party 510(k) submissions) that had received a MDUFA decision or were pending a MDUFA decision as of September 30, 2021. These definitions are consistent with the interpretation of similar statutory language in section 903 and other parts of section 904 of FDARA and are addressed in other sections of this report.
- “Missed review time goals but were approved during the first cycle review” are submissions in a MDUFA cohort with a MDUFA decision that did not meet the MDUFA goal and did not include a request for Additional Information or a Major Deficiency letter.

This section includes all MDUFA review goals as they pertain to submissions in the FYs 2019, 2020, and 2021 cohorts.

## **FY 2021 Review Goal Performance**

### **A. Summary of Performance:**

FDA received enough FY 2021 submissions to calculate performance for 13 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 13 review goals, one review goal was sufficiently complete to determine the outcome and was met, eight review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome), and four review goals were sufficiently complete to determine the outcome and were missed. The four missed goals were Substantive Interaction for Original PMAs, PDPs, Panel-Track PMA Supplements, and Premarket Reports; Substantive Interaction for 180-

Day PMA Supplements; Substantive Interaction for 510(k) Premarket Notifications; and Final Decision for 510(k) Premarket Notifications.

Additionally, with relevant submissions still pending, it is too soon to determine the types of circumstances, in the aggregate, under which relevant submissions missed review time goals but were approved during the first cycle review. FDA will provide this information, in subsequent corrective action reports, once all relevant FY 2021 cohorts are sufficiently complete.

#### **B. Justification:**

In FY 2020 and FY 2021, FDA responded to the unprecedented COVID-19 public health emergency. In FY 2020 and FY 2021, FDA experienced a 31 percent and 20 percent increase, respectively, in the total premarket submission volume compared to the pre-pandemic (FY 2019) work volumes. Since the beginning of the emergency, FDA has received over 8,000 medical device EUA and pre-EUA submissions. FDA has authorized a 15-fold increase in medical device EUAs over those issued in all prior public health emergencies combined. FDA helped facilitate the development and availability of COVID-19 tests and collection kits, PPE to help control the spread of the disease, and ventilators and other devices for treating COVID-19-related symptoms. Since the start of the emergency, FDA has issued EUAs or granted full marketing authorization to more than 1,800 medical devices for COVID-19. In addition, FDA conducted the timely review of more than 2 million medical device adverse event reports and completed other pivotal work activities such as addressing supply chain shortages and counterfeit products related to COVID-19. Despite prioritizing COVID-19-related work, FDA still worked to meet the MDUFA commitments. Meeting all MDUFA commitments remains FDA's goal, and the Agency is taking critical steps to improve performance, when possible, relative to the FY 2020 cohort.

Because of this large increase in work volume and the need to respond to the public health emergency, FDA prioritized COVID-19 work over other work areas, including work with MDUFA performance goals. This prioritization resulted in the missed performance goals as described above.

#### **C. Corrective Actions:**

FDA will continue to prioritize COVID-19-related work to address the ongoing public health need for safe and effective medical devices. As the COVID-19 pandemic continues to evolve, the volume of new EUA submissions for COVID-19-related products should begin to lessen in non-IVD offices. This reduction will allow FDA to begin focusing review resources back to MDUFA-related activities, bringing review performance back to "pre-COVID" levels for non-IVD offices. FDA has already begun to reverse submission delays, and review times have improved significantly. Submissions for non-IVD products under review continue to generally meet MDUFA goals. The IVD Office has been hiring, and will continue to hire, additional staff and contractors to address the increased volume of work in the office.

## **FY 2020 Review Goal Performance (Updated)**

### **A. Summary of Performance:**

FDA received enough FY 2020 submissions to calculate performance for 16 of the 25 MDUFA IV review goals. As of September 30, 2021, for those 16 review goals, six review goals were sufficiently complete to determine the outcome and were met, seven review goals are pending (i.e., FDA has the potential to meet the goal, but the MDUFA cohorts are not yet sufficiently complete to determine the outcome), and three review goals were sufficiently complete to determine the outcome and were missed. The three goals missed were Substantive Interaction for 180-Day PMA Supplements, Substantive Interaction for 510(k) Premarket Notifications, and Dual 510(k) and CLIA Waiver by Applications: Decision with No Advisory Committee Input.

Additionally, with relevant submissions still pending, it is too soon to determine the types of circumstances, in the aggregate, under which relevant submissions missed review time goals but were approved during the first cycle review. FDA will provide this information, in subsequent corrective action reports, once all relevant FY 2020 cohorts are sufficiently complete.

### **B. Justification:**

As discussed above, the COVID-19 pandemic resulted in FDA shifting resources away from MDUFA work to address the unprecedented volume of EUA submissions and other aspects of the response to COVID-19. This shifting of resources resulted in FDA missing performance goals as identified above.

### **C. Corrective Actions:**

As noted above, FDA will continue to prioritize COVID-19-related work to address the ongoing public health need for safe and effective medical devices. As the COVID-19 pandemic continues to evolve, the volume of new EUA submissions for COVID-19-related products should begin to lessen in non-IVD offices. This reduction will allow FDA to begin focusing review resources back to MDUFA-related activities, bringing review performance back to “pre-COVID” levels for non-IVD offices. FDA has already begun to reverse submission delays, and review times have improved significantly. Submissions for non-IVD products under review continue to generally meet MDUFA goals. The IVD Office has been hiring, and will continue to hire, additional staff and contractors to address the increased volume of work in the office.

## FY 2019 Review Goal Performance (Updated)

### A. Summary of Performance:

By the end of FY 2021, FDA had a sufficient MDUFA cohort to calculate final FY 2019 performance for 16 of the 25 review goals (including the 2 shared goals). FDA has met 15 of those 16 goals. The single missed review goal is a shared performance goal—namely, a 510(k) TTD. FDA and industry have collectively missed the shared TTD goal for 510(k) submissions. The FY 2019 shared TTD review goal for 510(k)s was 120 days, which was 4 days less than for the FY 2018 cohort. The calculated TTD for the FY 2019 510(k) cohort was 128 days.

As indicated in other sections of this report, MDUFA review goal performance data are based on a fiscal year receipt cohort. Preliminary data indicate that FDA has the potential to meet the one remaining review goal. With submissions still pending, it is too soon to determine final performance for the full FY 2019 cohort of review goals. FDA will provide updated information in future reports on any missed goals.

Additionally, of the 3,775 submissions within relevant FY 2019 PMA and 510(k) MDUFA cohorts,<sup>12</sup> one 510(k) submission missed a review time goal but was approved during the first cycle review. The submission missed the decision goal by 1 day. For that submission, FDA determined that working with the applicant interactively (instead of sending a request for Additional Information) would be the least burdensome way to resolve all deficiencies.

### B. Justification:

The TTD goal is a shared goal between FDA and industry wherein both parties share responsibility to achieve the goal. FDA's contribution to the TTD goal is measured by the time FDA took to review the submission and render a MDUFA decision. Industry's contribution to the TTD goal is measured by the time the 510(k) submitter took to respond to FDA's request for Additional Information when the submission is on hold (i.e., is not under review by FDA). Both FDA and industry contributed to missing this shared outcome goal. In FY 2019, compared to FY 2018, FDA increased the number of days it took to review 510(k) submissions by 0.5 days. In addition, industry days increased by 4.5 days in FY 2019 compared to FY 2018. The combination of these factors led to missing the FY 2019 TTD goal. Factors that may have contributed to missing this goal include an increased size and complexity of medical device submissions, a lack of consistent formatting of submissions, and the COVID-19 public health emergency. Some FY 2019 submissions were not yet

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<sup>12</sup> Relevant MDUFA cohorts for this information are as follows: Original PMA, PDP, Panel-Track PMA Supplements and Premarket Reports – Decision with No Advisory Committee Input (FY 2019 MDUFA cohort = 56), Original PMA, PDP, Panel-Track PMA Supplements and Premarket Reports – Decision with Advisory Committee Input (FY 2019 MDUFA cohort = 2), 180-Day PMA Supplements – Decision (FY 2019 MDUFA cohort = 190), Real-Time PMA Supplements – Decision (FY 2019 MDUFA cohort = 366), 510(k) Premarket Notification – Decision (FY 2019 MDUFA cohort = 3161).

closed when COVID-19 began. As discussed above, FDA prioritized work related to the COVID-19 public health emergency. In addition, during the COVID-19 public health emergency, industry was granted additional time to respond to requests for additional information. If submitters needed this additional time to respond, this additional time would contribute to the TTD for that submission.

### **C. Corrective Actions:**

The TTD goal for 510(k)s decreases by 4 days each year of MDUFA IV, and both FDA and industry share responsibility to achieve the goal. As overall submission volumes increase, FDA continues to look for opportunities to streamline review processes to reduce the number of FDA days contributing to the TTD goal and to provide greater consistency and transparency to industry. FDA has made several programmatic changes, process changes, and technology changes to enhance the efficiency of the 510(k) review process, as detailed below.

In September 2019, FDA issued an updated guidance document to clarify the types of device changes appropriate for review through the Special 510(k) program. The Special 510(k) program is intended to streamline the review for certain device modifications, and increased utilization of this program will assist both FDA and industry in achieving the TTD review goals. The updated policy described in this guidance is intended to expand upon the types of modifications that may be appropriate for the program and to improve efficiency. Since the release of the updated guidance document, FDA continues to track the Special 510(k) program and its impact on review efficiency times.

Each of the roughly 3,500 510(k) submissions FDA receives each year is prepared by the individual submitter and utilizes a different format, a different layout, and contains a variety of content. Therefore, FDA reviewers have to orient themselves each time they begin a 510(k) review. This formatting inconsistency creates inefficiencies in the review process, which is exacerbated when the submission is disorganized, is incomplete, or contains many subsections and reports that are not linked. To help address this inefficiency, FDA published a final guidance document in July 2020 describing a process for the development of templates to facilitate the preparation, submission, and review of regulatory submissions for medical devices solely in electronic format;<sup>13</sup> FDA further published a draft guidance on a 510(k)-specific electronic submission template<sup>14</sup> in September 2021. The currently available template, referred to as “eSTAR,” was piloted through the voluntary eSTAR Pilot Program launched in February 2020.<sup>15</sup> eSTAR is a guided 510(k) submission preparation tool that guides 510(k) submitters through the process of preparing a comprehensive and organized 510(k) submission, thereby supporting increased

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<sup>13</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab>.

<sup>14</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/electronic-submission-template-medical-device-510k-submissions>.

<sup>15</sup> <https://www.fda.gov/medical-devices/premarket-notification-510k/voluntary-estar-program>.

submission completeness and organization. Well-organized 510(k) submissions prepared using the eSTAR template allow for a more efficient review by FDA. Initial data indicates that the use of eSTAR is achieving the objective of producing well-organized and complete 510(k) submissions. The voluntary use of eSTAR is increasing, and FDA continues to develop and enhance this tool.

In March 2020, FDA finalized the updated 510(k) Third Party Review program guidance document.<sup>16</sup> This guidance document includes a description of the factors FDA will consider in determining the device type eligibility for the 510k Third Party Review program, provides additional transparency to industry and third party reviewers regarding program processes, and gives recommendations to help ensure a consistent quality of work by third party review organizations. These efforts to improve the 510(k) Third Party Review program and reduce FDA's re-review of these submissions are intended to decrease the review time for third party 510(k) submissions.

Finally, in September 2019, FDA published a final guidance document on the Safety and Performance Based Pathway.<sup>17</sup> This pathway expands upon the Abbreviated 510(k) program and is an optional pathway for certain well-understood device types when a submitter demonstrates that a new device meets performance criteria identified by FDA in device-specific guidance documents to demonstrate that the device is as safe and effective as a legally marketed device. By identifying performance criteria for device types appropriate for the pathway and recommending test methodologies for those criteria where feasible, FDA has created a clear and transparent approach to demonstrating substantial equivalence for these device types. As of September 30, 2021, five final guidance documents and three draft guidance documents for this pathway have been published.<sup>18</sup> FDA continues to identify additional device types that would be appropriate candidates for this program and to craft new guidance. FDA regularly encourages industry and other stakeholders to suggest additional devices for inclusion in this program and to submit evidence-based suggestions for the performance criteria.

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<sup>16</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/510k-third-party-review-program>.

<sup>17</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/safety-and-performance-based-pathway>.

<sup>18</sup> See <https://www.fda.gov/medical-devices/premarket-notification-510k/safety-and-performance-based-pathway>.

## ***MDUFA Performance Enhancement Goals***

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The following section addresses section 738A(a)(2)(B)(i) and (iv) of the FD&C Act as added by section 904(b)(2) of FDARA, which requires FDA to provide a justification for missed performance enhancement goals and a description of the efforts FDA has put in place to improve the ability of the Agency to meet performance enhancement goals.

This section presents performance enhancement goals with required completion dates in FY 2021 that did not meet their specified goal. Consistent with other sections of this report, performance enhancement goals are defined as any non-review performance goal identified in the MDUFA IV commitment letter. Performance enhancement goals with specified completion dates in FY 2022 will be covered in subsequent corrective action reports.

FDA had eight performance enhancement goals with required completion dates in FY 2021. By the end of FY 2021, FDA had completed these eight goals on time.

### **Program and Process Implementation**

#### **A. Summary of Performance:**

FDA had eight performance enhancement goals in FY 2021, all of which were completed on time.

#### **B. Justification:**

FDA did not miss any FY 2021 performance enhancement goals. Therefore, no justification is needed.

#### **C. FY 2021 Corrective Actions:**

FDA did not miss any FY 2021 performance enhancement goals. Therefore, no corrective action is needed.



## **Appendix F: Rationale for MDUFA Program Changes**

FDARA amended the FD&C Act to require the reporting of certain information relating to MDUFA program changes in the annual performance report. Specifically, section 903(b)(2) of FDARA added section 738A(a)(1)(A)(iv) of the FD&C Act, which requires the MDUFA annual performance report to include the following, starting in FY 2020:

- (I) Data, analysis, and discussion of the changes in the number of full-time equivalents hired as agreed upon in the letters described in section 201(b) of the Medical Device User Fee Amendments of 2017 and the number of full-time equivalents funded by budget authority at the Food and Drug Administration by each division within the Center for Devices and Radiological Health, the Center for Biologics Evaluation and Research, the Office of Regulatory Affairs, and the Office of the Commissioner;
- (II) Data, analysis, and discussion of the changes in the fee revenue amounts and costs for the process for the review of devices, including identifying drivers of such changes; and
- (III) For each of the Center for Drug Evaluation and Research, the Center for Devices and Radiological Health, the Center for Biologics Evaluation and Research, the Office of Regulatory Affairs, and the Office of the Commissioner, the number of employees for whom time reporting is required and the number of employees for whom time reporting is not required.

The information below fulfills these requirements.

### **Changes in the Number of Full Time Equivalents (FTE)s Hired as Agreed Upon in the MDUFA IV Commitment Letter and Number of FTEs Funded by Budget Authority at FDA by Division Within CDRH, CBER, ORA, and the Office of the Commissioner (OC)**

This section addresses the requirement in section 738A(a)(1)(A)(iv)(I) of the FD&C Act, as added by section 903(b)(2) of FDARA, to provide

data, analysis, and discussion of the changes in the number of full-time equivalents hired as agreed upon in the letters described in section 201(b) of the Medical Device User Fee Amendments of 2017 and the number of full time equivalents funded by budget authority at the Food and Drug Administration by each division within the Center for Devices and Radiological Health, the Center for Biologics Evaluation and Research, the Office of Regulatory Affairs, and the Office of the Commissioner.

## Changes in the Number of FTEs Hired as Agreed Upon in the MDUFA IV Commitment Letter

The table below provides data to show changes in the number of FTEs hired, from FY 2020 to FY 2021, as agreed upon in the MDUFA IV commitment letter. Relevant information about the data provided is as follows:

- *Number of MDUFA IV Positions Filled* = the number of people hired under MDUFA IV. The MDUFA IV commitment letter states:

The Agency will apply user fee revenues to reduce the ratio of review staff to front line supervisors in the premarket review program to improve consistency. The Agency will also apply user fee revenues to enhance and supplement scientific review capacity by hiring device application reviewers as well as leveraging external experts needed to assist with the review of device applications

(section III-B) and “to support the National Evaluation System for health Technology by ... hiring FDA staff with expertise in the use of [Real World Evidence]” (section IV-H). However, the MDUFA IV commitment letter does not specify numerical hiring goals in terms of FTEs. Therefore, the Agency is providing data on the number of MDUFA IV positions filled through the end of the relevant fiscal year. Although some positions are filled from outside FDA, in some cases, a position can also be filled by a current FDA employee who is changing positions within the Agency. Numbers are provided cumulatively through the most recent fiscal year [B] and prior fiscal year [A].<sup>19</sup>

- *Change in Positions Filled (FY 2020) [C]* = the cumulative number of MDUFA IV positions filled through the most recent fiscal year minus the cumulative number of MDUFA IV positions filled through the prior fiscal year ( $[C] = [B] - [A]$ ). This difference is equivalent to the number of MDUFA IV positions filled using MDUFA IV user fee revenues in the most recent fiscal year.

In summary, FDA filled 217 MDUFA IV positions through the end of FY 2021 (the most recent completed fiscal year). This amount is 43 positions higher than the 174 MDUFA IV positions filled through the end of FY 2020. FDA plans to allocate 217 MDUFA IV positions through the end of FY 2022.

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<sup>19</sup> This table displays the *cumulative* number of MDUFA IV positions filled through the end of each fiscal year. Other user fee program reports may display the number of relevant positions filled in each fiscal year (non-cumulative).

## MDUFA IV Positions Filled

Center	Number of MDUFA IV Positions Filled		Change in MDUFA IV Positions Filled (FY 2021) [C] ([B] – [A])
	Through FY 2020 [A]	Through FY 2021 [B]	
CDRH	170	213	43
CBER	4	4	0
ORA	0	0	0
OC	0	0	0
<b>Total</b>	<b>174</b>	<b>217</b>	<b>43</b>

### Change in the Number of FTEs Funded by Budget Authority at FDA by Division Within CDRH, CBER, ORA, and OC

The table below provides data to show the change from FY 2020 to FY 2021 in the number of FTEs funded by budget authority at FDA by each division within CDRH, CBER, ORA, and OC. All numbers in the table below have been rounded to the nearest tenths place. Relevant information about the data provided is as follows:

- *Number of MDUFA Program FTEs Funded by Budget Authority.* The table reflects the number of FTEs funded by budget authority for the MDUFA program. For this report, “budget authority” refers to FDA’s non-user fee annual appropriations. The numbers in the table below reflect use of 2080 compensable hours to equate to one FTE and are provided for the most recent fiscal year [B] and the prior fiscal year [A].
- *Change in Number of MDUFA Program FTEs Funded by Budget Authority [C] =* the number of MDUFA program FTEs funded by budget authority in the most recent fiscal year minus the number of MDUFA program FTEs funded by budget authority in the prior fiscal year ([C] = [B] – [A]).
- To address the requirement that information on the number of FTEs funded by budget authority be presented “by each division,” for CDRH, the information in the table is broken down to the offices within CDRH and the sub-offices within OPEQ. OPEQ, offices within OPEQ, the Office of Policy (OP), and the Office of Strategic Partnerships and Technology Innovation (OST) were established as part of CDRH’s 2019 reorganization, which was completed on September 30, 2019.<sup>20</sup> This approach to breakdown the divisions within CDRH is consistent with the interpretation of similar statutory language in other parts of section 903

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<sup>20</sup> “Reorganization of the Center for Devices and Radiological Health” (<https://www.fda.gov/about-fda/center-devices-and-radiological-health/reorganization-center-devices-and-radiological-health#changes>).

of FDARA that are addressed in other sections of this report. For CBER, ORA, and OC, the information in the table is broken down to the office level.

In summary, FDA's MDUFA Process FTE funded by budget authority increased from FY 2020 to FY 2021. This increase was primarily due to additional hiring, including temporary COVID hires to support the pandemic response, which enabled some staff to redirect a greater portion of their time back to MDUFA process activities.

### MDUFA Program FTEs Funded by Budget Authority

Center & Office	Number of MDUFA Program FTEs Funded by Budget Authority**		Change in Number of MDUFA Program FTEs Funded by Budget Authority [C]
	FY 2020 [A]	FY 2021 [B]	
<b>CDRH*</b>			
OCD	5.6	9.9	4.3
OPEQ			
OPEQ-OHT1	34.1	36.7	2.6
OPEQ-OHT2	59.1	43.2	-15.9
OPEQ-OHT3	42	40.4	-1.6
OPEQ-OHT4	11.6	30.1	18.5
OPEQ-OHT5	31.2	27.7	-3.5
OPEQ-OHT6	33.5	30.6	-2.9
OPEQ-OHT7^	45.7	43.0	-2.7
OPEQ-OCEA	36.1	52.6	16.5
OPEQ-ORP	16.6	20.0	3.4
OPEQ-IO	9.6	11.6	2.0
OCE	27.9	36.6	8.7
OM	31.7	34.5	2.8
OP	4.5	6.4	1.9
OSEL	14.2	22.9	8.7
OST	20.7	25.5	4.8
OIMT	2.5	2.0	-0.5
WCF	39.6	48.4	8.8
<b>CBER†</b>			
OBE	3.4	1.3	-2.1
OBRR	43.5	38.4	-5.1
OCBQ	5.6	2.6	-3.0
OTAT	2.7	4.5	1.8
OVRR	0.2	0.2	0.0
OCOD	3.1	2.3	-0.8
OD	5.9	5.8	-0.1
OM	5.4	4.4	-1.0

Center & Office	Number of MDUFA Program FTEs Funded by Budget Authority**		Change in Number of MDUFA Program FTEs Funded by Budget Authority [C]
	FY 2020 [A]	FY 2021 [B]	
OIMT	0.5	0.4	-0.1
WCF	5.5	4.8	-0.7
<b>ORA<sup>‡</sup></b>			
OMDRHO	27	26.3	-0.7
WCF	2.4	2.3	-0.1
<b>OC<sup>§</sup></b>			
OC-IO	0	1.7	+1.7
OCC	15.1	12.0	-3.1
OCS	2.3	4.4	+2.1
OCPP	12.4	12.4	0
OEA	2.4	2.1	-0.3
OHI	0.8	0.7	-0.1
OO	8.1	9.5	+1.4
OPLIA	10.4	8.6	-1.8
OSMP	0.1	0	-0.1
WCF	5.2	4.4	-0.8

\* The CDRH abbreviations are as follows: OCD=Office of the Center Director; OPEQ=Office of Product Evaluation and Quality; OHT=Office of Health Technology; OCEA=Office of Clinical Evidence & Analysis; ORP=Office of Regulatory Programs; IO=Immediate Office; OCE=Office of Communication and Education; OM=Office of Management; OP=Office of Policy; OSEL=Office of Science and Engineering Laboratories; OST=Office of Strategic Partnership and Technology Innovation; OIMT=Office of Information Management and Technology; and WCF=Working Capital Fund (which is not an office).

<sup>†</sup> This office is sometimes referred to as OIR.

<sup>‡</sup> The CBER abbreviations are as follows: OBE=Office of Biostatistics and Epidemiology; OBRR=Office of Blood Research and Review; OCBQ=Office of Compliance and Biologics Quality; OTAT=Office of Tissues and Advanced Therapies; OVRR=Office of Vaccines Research and Review; OCOD=Office of Communication Outreach and Development; OD=Office of the Center Director; OM=Office of Management; OIMT=Office of Information Management and Technology; and WCF=Working Capital Fund (which is not an office).

<sup>§</sup> The OC abbreviations are as follows: OC-IO=Office of the Commissioner – Immediate Office; OCC=Office of Chief Counsel; OCS=Office of Chief Scientist; OCPP=Office of Clinical Policy and Programs; OEA=Office of External Affairs; OHI=Office of Health Informatics; OO=Office of Operations; OPLIA=Office of Policy, Legislation and International Affairs; OSMP=Office of Special Medical Programs; and WCF=Working Capital Fund (which is not an office).

\*\*This table includes MDUFA program FTEs calculated through Working Capital Fund (WCF) assessments for certain centrally administered services provided to CDRH, CBER, ORA, and OC. Because many employees under OC and WCF do not report time, an average cost per OC WCF FTE was applied to derive the number of MDUFA program FTEs funded by budget authority.

## Changes in the Fee Revenue Amounts and Costs for the Process for the Review of Devices

This section addresses the requirement in section 738A(a)(1)(A)(iv)(II) of the FD&C Act, as added by section 903(b)(2) of FDARA, to provide “data, analysis, and discussion of the changes in the fee revenue amounts and costs for the process for the review of devices, including identifying drivers of such changes.” Accordingly, the table below provides data for the MDUFA fee revenue amounts and process costs for FY 2020 and

FY 2021, and the changes in these amounts from FY 2020 to FY 2021. Relevant information about the data provided is as follows:

- Fee Revenue Amounts represent FDA's net collection of medical device user fees.
- Review Process Cost represents FDA's total expenditure on the MDUFA program.
- Numbers are provided for both the most recent fiscal year [B] and prior fiscal year [A].
- *Change [C]* = shows fee revenue amounts or review process costs in the most recent fiscal year [B] minus fee revenue amounts or review process costs in the prior fiscal year [A] ( $[C] = [B] - [A]$ ).

In summary, in FY 2021, FDA had net collections of \$269 million in medical device user fees, which is a decrease of \$27 million compared to FY 2020. This decrease can be attributed to a decrease in the number of new establishment registrations relative to FY 2020. FDA spent nearly \$519 million in user fees and budget authority for the device review process in FY 2021, which is an increase of about \$48 million compared to FY 2020. This increase was primarily due to an increase in MDUFA process work and an increase in hiring to support that work. Detailed financial information for the MDUFA program can be found in the FY 2021 MDUFA Financial Report.

### MDUFA Fee Revenues and Cost

Revenue/Cost	FY 2020 [A]	FY 2021 [B]	Change [C]
Fee Revenue Amounts (Net Collections) <sup>1</sup>	\$295,402,430	\$268,753,004	-\$26,649,426
Review Process Cost	\$471,643,425	\$519,469,345	+\$47,825,920

<sup>1</sup> Includes unearned revenue.

### Number of Employees for Whom Time Reporting Is Required

This section addresses the requirement in section 738A(a)(1)(A)(iv)(III) of the FD&C Act, as added by section 903(b)(2) of FDARA, to provide,

for each of the Center for Devices and Radiological Health, the Center for Biologics Evaluation and Research, the Office of Regulatory Affairs, and the Office of the Commissioner, the number of employees for whom time reporting is required and the number of employees for whom time reporting is not required.

Relevant information about the time reporting numbers provided in the table below is as follows:

- The numbers in the table represent the number of employees who were required to report their time and the number of employees who were not required to report their time as of September 30, 2021.

- These data reflect time reporting across all employees in each entity, rather than only those engaged in MDUFA program activities.

### FY 2021 Time Reporting Requirements

Center	Number of Employees	
	Time Reporting Required	Time Reporting Not Required
CDRH	1,924	32
CBER	1,194	18
ORA	3,111	1,804
OC	41	2,609
Total	6,270	4,463



This report was prepared by FDA's Office of Planning in collaboration with the Center for Biologics Evaluation and Research and the Center for Devices and Radiological Health. For information on obtaining additional copies, please contact:

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