OFFICE OF NEW ANIMAL DRUG EVALUATION REVIEWER'S CHAPTER

PROCESSING ENVIRONMENTAL IMPACT SUBMISSIONS FOR NEW ANIMAL DRUGS

I. PURPOSE

The purpose of this document is to explain:

- the basis for the environmental review that we conduct;
- the administrative handling of submissions containing environmental compliance documents;
- the responsibilities of target animal and chemistry division personnel in documenting environmental compliance; and
- the administrative and technical responsibilities of the Division of Scientific Support (DSS), Environmental Safety Teams.

II. THE REQUIREMENT FOR ENVIRONMENTAL REVIEW

The National Environmental Policy Act of 1969 (NEPA) requires all Federal agencies to assess the environmental impact of their actions and to ensure that the interested and affected public is informed of environmental analyses. FDA's regulations implement NEPA statutes in 21 CFR Part 25.

Under FDA's regulations, 21 CFR 25.15(a), all applications or petitions requesting agency action require an environmental review through the submission of an environmental assessment (EA) or a claim of categorical exclusion (CE). The FDA CVM actions that require either an EA or CE include, but are not limited to, allowing clinical investigations under a (generic) investigational new animal drug [(J)INAD] file, approval of a (abbreviated) new animal drug application [(A)NADA], conditional approvals, or supplements to applications.

A CE is defined as a category of actions which have been found by procedures adopted by the Federal agency not to individually or cumulatively have a significant effect on the human environment [21 CFR 25.5(a)(1)]. There may be extraordinary circumstances under which an action that would ordinarily be excluded may have a significant environmental effect. A claim of CE must include a citation to the particular categorical exclusion that is claimed, a statement that the action qualifies for the CE, and a statement that to the applicant's knowledge, no extraordinary circumstances exist [21 CFR 25.15(a) and (d)]. Most FDA CVM actions are categorically excluded. When a CE is applicable but extraordinary circumstances exist, then an EA is needed to evaluate the potential environmental impact. Specific guidance concerning EA of animals containing intentional genomic alterations is outlined in revised draft Guidance for Industry (GFI) #187.

An EA (21 CFR 25.40) is a concise public document that provides sufficient evidence and analysis for CVM to determine whether a Finding Of No Significant (Environmental) Impact (FONSI) can be prepared or an environmental impact statement (EIS) is necessary. The EA often contains an environmental risk assessment. CVM provides guidance for conducting an environmental risk assessment in GFIs #89 and #166.

A FONSI (21 CFR 25.41) provides CVM's conclusions resulting from the EA and includes a discussion of any mitigations, alternatives, or management that is required to avoid environmental impacts.

An EIS (21 CFR 25.42) is also a public document which includes a discussion of any potential environmental impacts which cannot be avoided if the action is implemented. A record of decision (ROD; 21 CFR 25.43) is prepared for an EIS and contains the CVM decision about the potential environmental impacts.

III. ADMINISTRATIVE RESPONSIBILITY FOR ENVIRONMENTAL SUBMISSIONS

A. Environmental Assessments and Categorical Exclusions Of Investigations Under an (J)INAD

1. When a Sponsor Submits the Required Information

   For investigations under an (J)INAD file, the target animal division (TAD) is responsible for checking the administrative file to be certain the sponsor has submitted an EA or a claim of CE (see P&P 1243.4066). The sponsor must submit one of these environmental documents before shipping investigational new animal drugs for use in clinical studies [21 CFR 511.1(b)(10)]. Actions relating to investigations conducted after an (J)INAD is established are generally categorically excluded under 21 CFR 25.33(e).

   A CE or EA for the investigations under the (J)INAD is coded as an X submission and assigned to DSS for review. If the sponsor provided a CE or EA as part of the initial (J)INAD submission (A-0000), the TAD reviewer requests that the Document Control Unit (DCU) unbundle the submission and create an X submission separate from the A-0000 (see P&P 1243.4000). Then, the TAD reviewer requests that the X submission be reassigned to an Environmental Safety Team (EST) in the DSS.

   Under the X submission, the EST determines whether the action the sponsor is requesting falls within the CE cited by the sponsor. If the action falls within the CE, DSS notifies the sponsor of this decision. If the EST determines that an action cannot be categorically excluded, the DSS sends a letter to inform the sponsor and recommend future action.

2. When a Sponsor Does Not Submit the Required Information

   If the sponsor has not submitted an EA or claim for CE to the (J)INAD file, then the TAD reviewer contacts the sponsor by phone or letter and reminds them of the requirements. For letters sent to remind the sponsor of the requirement, use the following language.

   > Please submit an environmental assessment (EA) or a claim for a categorical exclusion from the requirement to prepare an EA as

required under 21 CFR 511.1(b)(10) before shipping investigational new animal drugs for use in clinical studies (21 CFR 511.1(b)). If you feel that a categorical exclusion is appropriate, please claim an exclusion under 21 CFR 25.33(e). If you make such a claim, you must, in accordance with 21 CFR 25.15(a), state that to your knowledge no extraordinary circumstances exist which may significantly affect the human environment (21 CFR 25.21). If you do not feel a claim for an exclusion is supportable, please prepare an EA. Submit all environmental documents to the Division of Scientific Support.

If the sponsor fails to claim a CE or submit an EA prior to shipping drug, after the reviewer has reminded them, we may suspend further action (e.g., issuing an authorization letter) on the (J)INAD.

B. Environmental Impact (EI) Technical Section (TS) for Approval of a New Animal Drug

Regulations (21 CFR 25.15) require that each application requesting agency action include the submission of an EA or a claim for CE. For the EI TS (P submission) for the approval of an (A)NADA or supplemental (A)NADA (including supplements for manufacturing changes), an applicant must provide an EA or claim of CE. If the applicant does not submit an EA or claim of CE, we may refuse to file or approve an application or petition [21 CFR 25.15(a)]. An applicant may submit this information for review under the (J)INAD phased review process or as part of an (A)NADA.

To facilitate the approval process, the primary reviewer reminds the sponsor that either a CE or EA is required for the approval of the (A)NADA and either an EA or claim of CE must be submitted during phased review process. If the sponsor fails to address the environmental TS as part of the phased review process, then significant delays in approval may occur. The TAD reviewer advises the sponsor to submit the CE or EA to the DSS, EST.

If the sponsor submitted the environmental documents together with other requests, the TAD reviewer requests that the DCU unbundle the submission and create a separate P submission for the environmental information. The reviewer requests that the P submission be assigned to the EST in the DSS. The EST reviews the submission and the DSS issues a response to the sponsor.

C. EI TS Included in an (A)NADA or Other Action

If the sponsor submits claims for CE or other environmental documents as part of an (A)NADA, then the reviewing division forwards a request for a consulting review to the DSS, EST in most cases. When the CE is claimed as part of a minor labeling supplement (subclass code NF or NL), the TAD reviews and completes the CE. For manufacturing supplements, the CE is forwarded to the Division of Manufacturing Technologies for review and appropriate action. For suitability petitions, the CE is reviewed and completed by the Division of Generic Animal Drugs.

IV. HANDLING ENVIRONMENTAL DOCUMENTS IN THE APPROVAL PROCESS

The procedures for handling environmental and other documents during the approval process are described in P&P 1243.3800. The preparer checks that the draft FEDERAL REGISTER notice announcing the approval (prepared by the CVM Policy and Regulations Team) contains the same citation as that in the EI TS complete letter.

V. REFERENCES

CVM Guidance for Industry (GFI)

GFI #89, Environmental impact assessments (EIAs) for veterinary medicinal products (VMPs) – phase I

GFI #166, Environmental impact assessments (EIAs) for veterinary medicinal products (VMPs) – phase II

Draft GFI #187, Regulation of Genetically Engineered Animals Containing Heritable Recombinant DNA Constructs

CVM Policy and Procedures Manual

1243.3800, Preparing and processing an approval package

1243.4066, Notice of Claimed Investigational Exemption

VI. VERSION HISTORY

November 16, 2001 - Original version

January 26, 2006 - Deleted TSC letter boilerplate language for letters based on our concurrence with the applicant's claim for categorical exclusion (language now incorporated into P&P 1243.4080) and minor formatting and other plain language edits.

August 30, 2010 - Major revision to incorporate the new process for X submissions and define office-level activities. Updated to indicate when the environmental team does not review categorical exclusion requests.

August 4, 2022 - Quality system review for minor formatting updates.