



FY 2018

PERFORMANCE REPORT TO CONGRESS

for the

Animal Drug User Fee Act

Acting Commissioner's Report

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

This report details FDA's preliminary performance for FY 2018 and finalizes performance results for FY 2017. It is my pleasure to report that FDA exceeded all performance goals for FY 2017. The Agency also met review-time goals for almost all FY 2018 cohort submissions reviewed or due for review by September 30, 2018. With some reviews still pending, FDA has the potential to exceed all performance goals for FY 2018.

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

Norman E. Sharpless, M.D.
Acting Commissioner of Food and
Drugs

Acronyms

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

Executive Summary

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

More information on the history of ADUFA is available on the FDA website.¹

Information Included in this Report

This report summarizes FDA's performance in meeting ADUFA goals and commitments for FY 2017 and FY 2018. Specifically, it updates and finalizes performance data initially reported in the FY 2017 ADUFA Performance Report and presents preliminary data on FDA's progress in meeting FY 2018 review goals, implementation activities, and accomplishments.

Review Performance

FDA continues to meet or exceed expectations in the implementation and completion of the review performance goals established under ADUFA III. Key activities and accomplishments during FY 2018 included the following:

- FDA met review-time goals for almost all (180 of 182) FY 2017 cohort submissions that were pending at the start of FY 2018. FDA exceeded all seven ADUFA performance goals for the FY 2017 cohort.
- Preliminary performance results indicate that FDA met review-time goals for almost all (569 of 574) FY 2018 cohort submissions reviewed and acted on as of September 30, 2018. With 193 additional reviews pending that may yet be completed on time, FDA has the potential to exceed all seven ADUFA performance goals for the FY 2018 cohort.

¹ www.fda.gov/forindustry/userfees/animaldruguserfeeactadufa/default.htm

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Introduction

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

Information Presented in This Report

In any given year, FDA performance includes reviews of applications and submissions pending from previous fiscal years along with submissions received during the current fiscal year. This report provides FDA's final performance for the FY 2017 cohort and presents FDA's preliminary performance with respect to performance goals for the FY 2018 cohort submissions that were received early enough to be reviewed, or due for review, by September 30, 2018.

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

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

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

- The performance statistics in this report are based on submissions received during a fiscal year (known as a receipt cohort). This methodology calculates performance statistics for submissions according to the fiscal year FDA received them, regardless of the year in which FDA ultimately acted on or approved the submissions. A result of this approach is that the statistics shown for a particular fiscal year may change from one report to the next. As more submissions are completed, the statistics for the year of receipt are adjusted to reflect the new completions. Therefore, until all submissions in a cohort are acted on or have passed the due date, whichever comes first, only a preliminary performance assessment is provided for that fiscal year cohort.
- For submission types with a longer review-time goal (for example, 180 days) review performance data are usually limited. For submission types with a shorter review-time goal (for example, 50 days) review performance data for submissions received early in the fiscal year are available at the time the report is prepared and thus the report may provide an early indicator of review performance.
- Performance goal tables indicate the total number of submissions filed as well as whether the submission was reviewed on time, was overdue, or is still pending and not past its due date.
- The workload counts presented in this report for FY 2018 include all submissions received in the last month of FY 2018. For ADUFA review times, FDA calculates from the original receipt of the application or submission.
- Minor Use or Minor Species (MUMS) conditional approvals are not counted as NADAs. Therefore, review performance on them is not presented in this report. The goal of MUMS is to encourage development of products for treatment of minor species or for treatment of animal diseases and conditions of major species that occur infrequently or in limited geographic areas. Further details on MUMS can be found on the FDA website at: www.fda.gov/AnimalVeterinary/DevelopmentApprovalProcess/MinorUseMinorSpecies
- Submissions that FDA identified as refused to file or refused to review, and reviews that were stopped at the request of the sponsor, are not included in the statistics used to measure performance. These submissions are noted, however, in the relevant workload narratives and footnotes for performance goals.
- When determining performance, FDA-calculated percentages are rounded to the nearest whole number, up to 99 percent. Percentages above 99 percent, but below 100 percent, are rounded down to 99 percent.

File Types Included in This Report

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

Source:

NADA - 21 CFR 514.3

www.ecfr.gov/cgi-bin/text-idx?SID=181eddb42cc61a7f590432800f56a462&node=se21.6.514_13&rqn=div8

INAD -

www.fda.gov/animalveterinary/guidancecomplianceenforcement/guidanceforindustry/ucm123818.htm

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ADUFA Review Workload

Review Workload: FY 2013 to FY 2018

In the table below, preliminary review workload numbers from FY 2018 are compared to the previous 5-year averages for all ADUFA application and submission types filed. The individual years that are included in the 5-year average can also be referenced below. There are no performance goals associated with workload, but the variations in workload over time can provide context for review performance. As of October 1, 2014 (the beginning of FY 2015), the Agency agreed to discontinue end-review amendment (ERAs) procedures and replace them with a shorter review time process for sponsors providing electronic NADA and INAD submissions. The shortened review submissions are not a subcategory but are now included in the overall submission numbers. The FY 2013 to FY 2017 averages include ERAs, where applicable, in order to make an accurate comparison of the change in workload.

Review Workload for Applications and Submissions

Application/ Submission Type	FY 13	FY 14	FY 15	FY 16	FY 17[†]	FY 18[†]	FY 13 to FY 17 5-Year Average	FY 18 Compared to 5-Year Average
Original NADAs and Reactivations	0	3	3	15	11	9	6	+50%
ERAs for Original NADAs and Reactivations	0	0	--	--	--	--		
Administrative NADAs and Reactivations	9	21	16	18	8	11	14	-21%
Non-manufacturing Supplemental NADAs and Reactivations	4	9	6	10	2	4	7	-43%
ERAs for Non-manufacturing Supplemental NADAs and Reactivations	2	0	--	--	--	--		
Manufacturing Supplemental NADAs and Reactivations	281	340	327	324	378	350	330	+6%
Qualifying Labeling Supplements [‡]	--	--	3	6	6	4	--	--
INAD Studies	198	235	147	181	172	161	200	-20%
ERAs for INAD Studies	22	45	---	---	--			
INAD Study Protocols	118	140	248	277	282	228	239	-5%
ERAs for INAD Study Protocols	55	75	--	--	--	--		

[†] FY 2017 numbers were changed to reflect updates to data presented in the FY 2017 ADUFA performance report.

[†] FY 2018 numbers are preliminary and will be updated in the FY 2019 ADUFA Performance Report.

[‡] Qualifying Labeling Supplements were not sentinel submission type under ADUFA II and the first year of ADUFA III.

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FY 2017 and FY 2018 ADUFA Performance

The tables that follow present FDA’s review performance for the FY 2017 and FY 2018 ADUFA cohort submissions.

Final FY 2017 Performance

FDA exceeded the 90 percent performance level for all seven of the review performance goals for submission types where submissions were received in FY 2017. Across all submission types, FDA met the review-time goal in 841 of 859 submissions.

Application/ Submission Type	Filed	Goal: Act on 90 Percent Within	On Time	Overdue	Percent on Time
Original NADAs and Reactivations	11	180 days	11	0	100%
Administrative NADAs	8	60 days	8	0	100%
Non-manufacturing Supplemental NADAs and Reactivations	2	180 days	2	0	100%
Manufacturing Supplemental NADAs and Reactivations	378 [†]	120 days	368	10	97%
Qualifying Labeling Supplements	6	60 days	6	0	100%
INAD Studies	172 [‡]	180 days	169	3	98%
INAD Study Protocols	282 [^]	50 days	277	5	98%

[†] A total of 390 submissions were received, but 10 received a pending supplement withdrawn by request of sponsor and two received a refuse to review.

[‡] A total of 189 submissions were received, but six received a file no reply with memo, seven received a refuse to review and four received a stop review.

[^] A total of 295 submissions were received, but one received a refuse to accept, one received a file no reply with memo, 10 received a refuse to review, and one received a stop review.

Preliminary FY 2018 Performance

As of September 30, 2018, performance data were available for 574 of 767 submissions filed in FY 2018. FDA is currently exceeding all but one (6 of 7) performance goal for all seven submission types. Overall, FDA met review-time goals in 569 of 574 submissions. With 193 submissions pending within goal, FDA has the potential to meet or exceed the 90 percent performance level for all seven submission types.

Application/ Submission Type	Filed	Goal: Act on 90 Percent Within	On Time	Overdue	Percent On Time	Pending Within Goal	Highest Possible Percent on Time
Original NADAs and Reactivations	9	180 days	5	0	100%	4	100%
Administrative NADAs	11	60 days	8	1	89%	2	91%
Non-manufacturing Supplemental NADAs and Reactivations	4*	180 days	3	0	100%	1	100%
Manufacturing Supplemental NADAs and Reactivations	350 [†]	120 days	259	1	99%	90	99%
Qualifying Labeling Supplements	4	60 days	2	0	100%	2	100%
INAD Studies	161 [‡]	180 days	88	0	100%	73	100%
INAD Study Protocols	228 [§]	50 days	204	3	99%	21	99%

* A total of seven submissions were received but three received a pending supplement withdrawn by request of sponsor.

[†] A total of 361 submissions were received, but 10 received a pending supplement withdrawn by request of sponsor, and one received a refuse to review.

[‡] A total of 169 submissions were received, but seven received a refuse to review, and one received a stop review.

[§] A total of 239 submissions were received, but nine received a refuse to review, and two received a refuse to accept.

FY 2018 Process Improvement

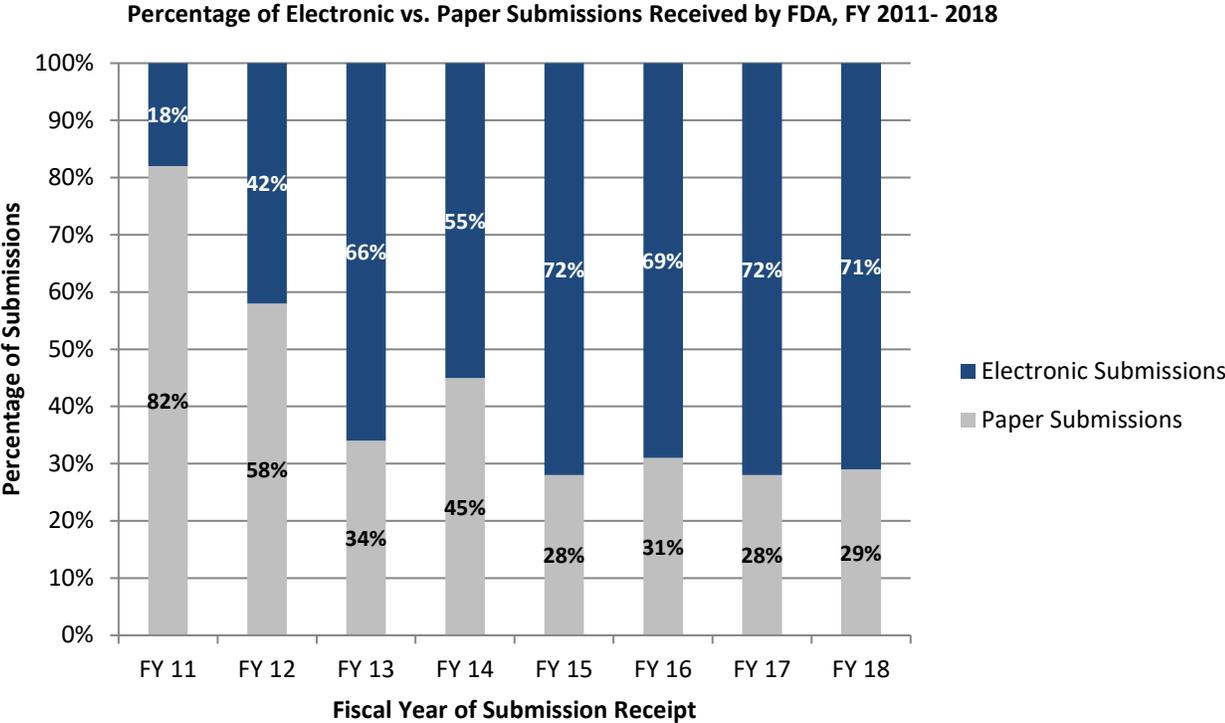
Under ADUFA III, FDA committed to a variety of process improvements. FDA agreed to enhance and further improve the review process via the following changes:

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

- **Dosage Characterization.** The Agency clarified that dosage characterization is part of the effectiveness technical section of the INAD file. If information about dosage is integral to the review of a protocol, this information will be provided early to inform the review.
- **Animal Drug Availability Act (ADAA) Combinations.** The Agency agreed to explore the feasibility of pursuing statutory revisions that may modify the current requirement that the use of multiple new animal drugs in the same medicated feed be subject to an approved application.
- **Conditional Approval.** The Agency agreed to explore, in concert with industry, the feasibility of pursuing statutory revisions, consistent with the Agency's mission to protect and promote the public health, that may expand the use of conditional approvals to other appropriate categories of new animal drug applications and develop recommendations by September 30, 2015.
- **Microbial Food Safety Hazard Characterization Submissions.** The Agency agreed to review and act on 90 percent of microbial food safety hazard characterization submissions within 100 days after the submission date. These Submissions are part of the INAD Studies Submissions.

Major Accomplishments during FY 2018

- Foreign Pre-approval Inspections.** In an effort to improve communications, timeliness, and predictability of foreign pre-approval inspections, sponsors can voluntarily submit a list of foreign manufacturing facilities anticipated to be included in the sponsor’s new animal drug applications for the following year. Two sponsors voluntarily submitted lists of foreign manufacturing facilities anticipated to be included in new animal drug applications in FY 2018. FDA completed eleven foreign pre-approval inspection assignments in FY 2018, with an average time of 111 days to complete all aspects of an inspection (e.g., preparation, communication with the foreign jurisdiction, and actual time in the facility).
- Electronic Submission and Review.** Since the release of CVM’s eSubmitter tool in FY 2011, there has been an overall decline in paper submissions. CVM received approximately 71 percent of its regulatory submissions electronically in FY 2018 (compared to only 18 percent in FY 2011).



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

Enhancements to Chemistry, Manufacturing, and Controls (CMC)

- **Permit a two-phase data submissions process to the CMC Technical Section:** Submission of CMC information as a two-phased data submission is voluntary. In FY 2018, CVM received two first-phase submissions according to the two-phased data submission process. This new process permits the submission and review of early completed CMC information that may increase the timely completion of the entire CMC Technical Section.
- **Permit comparability protocols to be submitted as protocols without substantial data in an INAD file:** Submission of comparability protocols as protocols without substantial data in an INAD file is voluntary. In FY 2018, CVM received 15 INAD comparability protocols. This new process reduces the review time for most comparability protocols from 120 to 50 days.
- **Permit prior approval manufacturing supplements to be resubmitted as CBE-30s:** In FY 2018, five incomplete prior-approval manufacturing supplements were permitted to be resubmitted as CBE-30s. The total number of incomplete prior-approval manufacturing supplements was 17. This new process may allow for earlier distribution of animal drugs made with CMC changes.
- **Supporting Information for Presubmission Conferences and INAD Protocols without data submissions.** Early information is a collaborative process which is used by sponsors and Office of New Animal Drug Evaluation (ONADE) reviewers to solve problems or brainstorm pathways forward in the drug development process. CVM is moving to a new electronic system for tracking submissions that include early information. The new tracking system will be available starting October 1, 2018 (FY 2019). Due to this transition period, we are not able to provide a count of the number of early information submissions received in FY 2018.
- **ADAA Combinations.** FDA met the goal of exploring the feasibility of pursuing statutory revisions that may modify the current requirement that the use of multiple new animal drugs in the same medicated feed be subject to an approved application. CVM provided written recommendations for consideration through the *Federal Register* on May 2, 2016.

- **Conditional Approval.** In support of the goal of exploring the feasibility of pursuing statutory revisions that may expand the use of conditional approvals to other categories of new animal drug applications, the Animal Drug User Fee Amendments of 2018 (ADUFA IV), which reauthorizes the ADUFA program through 2023 and was signed into law on August 14, 2018, expanded the conditional approval pathway to allow certain new animal drugs that are not minor use/minor species (MUMS) drugs to qualify for conditional approval. This expanded pathway is limited to a new animal drug that is intended to treat a serious or life-threatening disease or condition or addresses an unmet animal or human health need and for which it is determined that a demonstration of effectiveness would require a complex or particularly difficult study or studies.

Appendix

Appendix A: Definitions of Key Terms

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

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

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

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

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

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

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

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



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

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

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