
Demonstrating Substantial Evidence of Effectiveness for Human Drug and Biological Products Guidance for Industry

DRAFT GUIDANCE

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**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Biologics Evaluation and Research (CBER)
Center for Drug Evaluation and Research (CDER)**

**December 2019
Clinical/Medical**

Demonstrating Substantial Evidence of Effectiveness for Human Drug and Biological Products Guidance for Industry

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Draft — Not for Implementation

TABLE OF CONTENTS

| | | |
|-------------|---|-----------|
| I. | INTRODUCTION..... | 1 |
| II. | STANDARD OF EFFECTIVENESS FOR DRUGS AND BIOLOGICS..... | 3 |
| A. | Statutory standard..... | 3 |
| B. | Scientific basis for the statutory standard | 4 |
| III. | THE QUALITY OF CLINICAL EVIDENCE TO ESTABLISH EFFECTIVENESS | |
| | | 5 |
| A. | Trial designs | 5 |
| B. | Trial endpoints | 7 |
| C. | Statistical considerations..... | 8 |
| IV. | THE QUANTITY OF CLINICAL EVIDENCE TO ESTABLISH | |
| | EFFECTIVENESS..... | 8 |
| A. | Meeting the substantial evidence standard based on two adequate and well-controlled | |
| | clinical investigations..... | 8 |
| 1. | <i>Two adequate and well-controlled clinical investigations</i> | <i>8</i> |
| 2. | <i>One adequate and well-controlled large multicenter trial that can provide substantial evidence of</i> | |
| | <i>effectiveness</i> | <i>9</i> |
| B. | Meeting the substantial evidence standard based on one adequate and well-controlled | |
| | clinical investigation plus confirmatory evidence | 10 |
| 1. | <i>One adequate and well-controlled clinical investigation on a new indication for an approved</i> | |
| | <i>drug, supported by existing adequate and well-controlled clinical investigation(s) that</i> | |
| | <i>demonstrated the effectiveness of the drug for its other, closely related approved indication(s)..</i> | <i>11</i> |
| 2. | <i>One adequate and well-controlled clinical investigation supported by data that provide strong</i> | |
| | <i>mechanistic support</i> | <i>11</i> |
| 3. | <i>One adequate and well-controlled clinical investigation with compelling results, supported by</i> | |
| | <i>additional data from the natural history of the disease</i> | <i>12</i> |
| 4. | <i>One adequate and well-controlled clinical investigation of the new drug, supported by scientific</i> | |
| | <i>knowledge about the effectiveness of other drugs in the same pharmacological class</i> | <i>12</i> |
| C. | Meeting the substantial evidence standard for a new population or a different dose, | |
| | regimen, or dosage form, based on reliance of FDA’s previous finding of effectiveness of an | |
| | approved drug when scientifically justified and legally permissible..... | 13 |
| V. | EXAMPLES OF CLINICAL CIRCUMSTANCES WHERE ADDITIONAL | |
| | FLEXIBILITY MAY BE WARRANTED..... | 14 |
| A. | When the disease is life-threatening or severely debilitating with an unmet medical need .. | 14 |
| 1. | <i>Trial design.....</i> | <i>15</i> |
| 2. | <i>Trial endpoints</i> | <i>15</i> |
| 3. | <i>Number of trials</i> | <i>16</i> |
| 4. | <i>Statistical considerations.....</i> | <i>16</i> |
| B. | When the disease is rare | 16 |
| 1. | <i>Trial design.....</i> | <i>16</i> |
| 2. | <i>Trial endpoints</i> | <i>17</i> |
| 3. | <i>Number of trials</i> | <i>17</i> |
| 4. | <i>Statistical considerations.....</i> | <i>17</i> |
| C. | When conducting a human efficacy trial is not ethical or feasible | 18 |

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1 **Demonstrating Substantial Evidence of Effectiveness for**
2 **Human Drug and Biological Products**
3 **Guidance for Industry**
4

5
6 This draft guidance, when finalized, will represent the current thinking of the Food and Drug
7 Administration (FDA or Agency) on this topic. It does not establish any rights for any person and is not
8 binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the
9 applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff responsible
10 for this guidance as listed on the title page.
11

12
13
14 **I. INTRODUCTION**
15

16 This document is intended to provide guidance to applicants planning to file new drug
17 applications (NDAs), biologics license applications (BLAs), or applications for supplemental
18 indications on the evidence to be provided to demonstrate effectiveness. This guidance
19 complements and expands on the 1998 guidance entitled Providing Clinical Evidence of
20 Effectiveness for Human Drug and Biological Products (the 1998 guidance)¹.
21

22 The 1998 guidance was issued in response to the Food and Drug Administration Modernization
23 Act of 1997 (FDAMA) (Pub. L. 105–115), which stated that the substantial evidence
24 requirement for effectiveness, which had generally been interpreted as calling for two adequate
25 and well-controlled trials, could also be met by a single trial² plus confirmatory evidence. The
26 1998 guidance, therefore, provided many examples of the types of evidence that could be
27 considered confirmatory evidence, with a specific focus on adequate and well-controlled trials of
28 the test agent in related populations or indications, as well as a number of illustrations of a single
29 adequate and well-controlled trial supported by convincing evidence of the drug’s mechanism of
30 action in treating a disease or condition.
31

32 FDAMA thus introduced a specific new area of flexibility in the evidence needed to support
33 effectiveness, but there are many other characteristics of the evidence supporting effectiveness
34 that can vary (notably, trial designs, trial endpoints, statistical methodology), and evidence that
35 varies in such ways potentially can provide substantial evidence of effectiveness but because of
36 these characteristics may provide greater or lesser certainty. These characteristics also deserve
37 consideration and were not discussed in the 1998 guidance. FDA’s consideration of these
38 various designs, endpoints, and analyses which can differ in the strength of evidence they

¹ FDA updates guidances periodically. To make sure you have the most recent version of a guidance, check the FDA webpage. The guidances mentioned in this document are available on the guidance web page at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, and <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics>.

² In this guidance, the terms “trial” and “clinical trial” have the same meaning as the term “clinical investigation” as the latter is defined in FDA regulations (see, e.g., 21 CFR 312.3(b)).

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39 provide, reflects the Agency’s longstanding flexibility when considering the types of data and
40 evidence that can meet the substantial evidence requirement.

41
42 Although FDA’s evidentiary standard for effectiveness has not changed since 1998, the
43 evolution of drug development and science has led to changes in the types of drug development
44 programs submitted to the Agency. Specifically, there are more programs studying serious
45 diseases lacking effective treatment, more programs in rare diseases, and more programs for
46 therapies targeted at disease subsets. There is a need for more Agency guidance on the
47 flexibility in the amount and type of evidence needed to meet the substantial evidence standard
48 in these circumstances. The approaches discussed in this guidance can yield evidence that meets
49 the statutory standard for substantial evidence and reflect the evolving landscape of drug
50 development.

51
52 The “substantial evidence” of effectiveness standard in the statute (discussed in Section II) refers
53 to both the quality and the quantity of the evidence. It clearly provides that all clinical
54 investigations supporting effectiveness should be of appropriate design and of high quality (i.e.,
55 adequate and well-controlled; discussed in Section III). Sponsors often seek advice on what trial
56 design will be considered acceptable in various development programs. This guidance discusses,
57 in part, what clinical trial designs are considered adequate and well-controlled, and under what
58 circumstances it may be appropriate to use a given design (discussed in Section III.A).

59
60 The clinical endpoints studied are a critical aspect of evidence quality (discussed in Section
61 III.B). The Agency accepts clinical endpoints that reflect patient benefits (i.e., how patients feel,
62 function, or survive) or validated surrogate endpoints³ (i.e., those that have been shown to
63 predict a specific clinical benefit) as the basis for traditional approval. In contrast to traditional
64 approval, accelerated approval can be based on a demonstrated effect on a surrogate endpoint
65 that is reasonably likely to predict a clinical benefit but where there are not sufficient data to
66 show that it is a validated surrogate endpoint. Effects on intermediate clinical endpoints⁴ can
67 also be a basis for accelerated approval. For drugs granted accelerated approval, FDA requires
68 post-approval trials to verify the predicted clinical benefit.

69
70 This guidance also discusses the quantity of evidence needed in a given development program –
71 i.e., two adequate and well-controlled trials, one adequate and well-controlled trial plus
72 confirmatory evidence, or reliance on a previous finding of effectiveness of an approved drug
73 when scientifically justified and legally permissible (i.e., no new effectiveness or
74 pharmacodynamic data would be needed) (discussed in the 1998 guidance and Section IV.A,
75 IV.B, and IV.C, respectively). It also expands upon the discussions included in the 1998
76 guidance on the types of mechanistic and pharmacologic evidence and non-clinical evidence that
77 can constitute confirmatory evidence.

78

³ For more information on validated surrogate endpoints, see the BEST (Biomarkers, EndpointS, and other Tools) Resource available at: <https://www.ncbi.nlm.nih.gov/books/NBK453484/>.

⁴ An intermediate clinical endpoint is “a clinical endpoint that can be measured earlier than irreversible morbidity or mortality, that is reasonably likely to predict an effect on irreversible morbidity or mortality or other clinical benefit.” Section 506(c)(1)(A) of the Federal Food, Drug, and Cosmetic Act (FD&C Act).

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79 Although randomized superiority trials with a placebo- or active-control design generally
80 provide the strongest evidence of effectiveness, this guidance discusses the circumstances under
81 which trials not using a placebo control, superiority design, or randomization may be acceptable
82 (discussed in Section V.A and V.B). In addition, this guidance also discusses situations in which
83 human efficacy trials are not ethical or feasible, and the animal rule may be applied (discussed in
84 Section V.C).

85
86 The finding of substantial evidence of effectiveness is necessary but not sufficient for FDA
87 approval. The approval decision also requires a determination that the drug is safe for the
88 intended use. As all drugs have adverse effects, evaluating whether a drug is “safe” involves
89 weighing whether the benefits of the drug outweigh its risks under the conditions of use defined
90 in labeling. Uncertainties regarding benefits and risks are considered when making an approval
91 determination; a drug with greater risks may require a greater magnitude and certainty of benefit
92 to support approval. This benefit-risk analysis, as well as other determinations necessary for
93 approval, is outside the scope of this guidance.

94
95 In general, FDA’s guidance documents do not establish legally enforceable responsibilities.
96 Instead, guidances describe the Agency’s current thinking on a topic and should be viewed only
97 as recommendations, unless specific regulatory or statutory requirements are cited. The use of
98 the word *should* in Agency guidances means that something is suggested or recommended, but
99 not required.

100

101

102 II. STANDARD OF EFFECTIVENESS FOR DRUGS AND BIOLOGICS

103

104 A. Statutory standard

105

106 In 1962, Congress required for the first time that drugs be shown to be effective as well as safe.

107 A drug’s effectiveness must be established by “substantial evidence,” which is defined as:

108

109 “evidence consisting of adequate and well-controlled investigations, including
110 clinical investigations, by experts qualified by scientific training and experience
111 to evaluate the effectiveness of the drug involved, on the basis of which it could
112 fairly and responsibly be concluded by such experts that the drug will have the
113 effect it purports or is represented to have under the conditions of use prescribed,
114 recommended, or suggested in the labeling or proposed labeling thereof.”⁵

115

116 Under section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. § 262) licenses for
117 biologics have been issued only upon a showing that the products are “safe, pure, and potent.”
118 Potency has long been interpreted to include effectiveness (21 CFR 600.3(s)). FDA has also
119 generally considered “substantial evidence” of effectiveness to be necessary to support licensure

120

⁵ The FD&C Act section 505(d) (21 U.S.C. § 355(d)).

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121 of a biological product under section 351 of the PHS Act.⁶

122
123 FDA has interpreted the law as generally requiring at least two adequate and well-controlled
124 clinical investigations,⁷ each convincing on its own, to establish effectiveness (discussed in
125 Section IV.A.1). Under specific circumstances, however, FDA has considered a large
126 multicenter trial that has certain characteristics to satisfy the legal requirement for substantial
127 evidence of effectiveness (discussed in Section II.C.3 of the 1998 guidance and Section IV.A.2).
128 FDA may also rely on a previous finding of effectiveness of an approved drug when
129 scientifically justified and legally permissible; in this case there is no need for additional
130 adequate and well-controlled clinical efficacy trials (discussed in Section IV.C).

131
132 In addition to reliance on a single large multicenter trial or previous finding of effectiveness of
133 an approved drug, there are other circumstances where substantial evidence of effectiveness can
134 be provided outside of the setting of two adequate and well-controlled clinical investigations.
135 Congress specifically provided for these in section 115(a) of FDAMA, which amended the
136 statutory provision on substantial evidence of effectiveness, 21 U.S.C. § 355(d), to add the
137 following:

138
139 “If [FDA] determines, based on relevant science, that data from one adequate and
140 well-controlled clinical investigation and confirmatory evidence (obtained prior to
141 or after such investigation) are sufficient to establish effectiveness, [FDA] may
142 consider such data and evidence to constitute substantial evidence.”

143
144 This modification explicitly recognized the potential for FDA to find that one adequate and well-
145 controlled clinical investigation with confirmatory evidence, including supportive data outside of
146 a controlled trial, is sufficient to establish effectiveness (discussed in Section IV.B).

147 148 **B. Scientific basis for the statutory standard**

149
150 To establish a drug’s effectiveness, it is essential to distinguish the effect of the drug “from other
151 influences, such as spontaneous change in the course of the disease, placebo effect, or biased
152 observation.”⁸ This is the basis for the statutory requirement that approval be based on adequate
153 and well-controlled investigations, as well as the basis for FDA’s regulations describing the
154 characteristics of such investigations (i.e., design elements that are generally intended to
155 minimize bias and permit a valid comparison with a control to provide a quantitative assessment
156 of drug effect).

157

⁶ In 1972, FDA initiated a review of the safety and effectiveness of all previously licensed biologics. The Agency stated then that proof of effectiveness would, with limited exceptions, consist of controlled clinical investigations as defined in the provision for “adequate and well-controlled studies” for new drugs (21 CFR 314.126) (see former 21 CFR 601.25(d)(2) (2015) (revoked as no longer necessary, 81 FR 7445 (Feb. 12, 2016))). We note that, in section 123(f) of FDAMA, Congress also directed the agency to take measures to “minimize differences in the review and approval” of products required to have approved BLAs under section 351 of the PHS Act and products required to have approved NDAs under section 505(b)(1) of the FD&C Act.

⁷ See FDA regulation regarding adequate and well-controlled studies at 21 CFR 314.126.

⁸ 21 CFR 314.126(a).

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158 A second adequate and well-controlled investigation or confirmatory evidence provides
159 substantiation of experimental results, which is a widely accepted scientific principle. This
160 approach is intended to minimize the possibility that other influences such as bias and chance
161 findings could result in a false conclusion that a drug is effective when in fact it is not (false
162 positive).
163
164

III. THE QUALITY OF CLINICAL EVIDENCE TO ESTABLISH EFFECTIVENESS

165
166 The quality of clinical evidence to establish effectiveness and the resulting level of certainty
167 about the demonstration of substantial evidence is impacted by the selection of trial design and
168 trial endpoint(s) as well as statistical considerations, as discussed below.
169
170

A. Trial designs

171
172 Adequate and well-controlled clinical investigations provide the primary basis for determining
173 whether there is substantial evidence to support the claims of effectiveness.⁹ FDA regulation at
174 21 CFR 314.126(b) describes characteristics of an adequate and well-controlled clinical
175 investigation, including choice of control, method of patient assignment to treatment (e.g.,
176 randomization), adequate measures to minimize bias (e.g., blinding), well-defined and reliable
177 assessment of individuals' response (i.e., efficacy endpoint), and adequate analysis of the clinical
178 investigation's results to assess the effects of the drug (i.e., statistical methods). Although
179 randomized double-blinded, concurrently controlled superiority trials are usually regarded as the
180 most rigorous design, as discussed further below, five types of controls are described in section
181 314.126:¹⁰ placebo concurrent control, dose-comparison concurrent control, no treatment
182 concurrent control, active treatment concurrent control, and historical control (a type of external
183 control).¹¹ Of note, when the first version of the rule was published in 1970, historical controls
184 and active treatment controls were included.¹² Thus, from its earliest description of adequate and
185 well-controlled trials, FDA included trial designs (as discussed below) that may be more difficult
186 to interpret, which reflected FDA's recognition that different trial designs (including choice of
187 control) may be appropriate in different disease settings.
188
189

190 Establishing superiority to a concurrent control group (whether an active agent, including a lower
191 dose of the test drug, or placebo) generally provides strong evidence of effectiveness, because a
192 superiority design does not depend on assumptions regarding the effectiveness of the control.

⁹ The FD&C Act section 505(d) (21 U.S.C. § 355(d)); 21 CFR 314.126(a).

¹⁰ See 50 FR 7452, 7487 (February 22, 1985).

¹¹ The regulation uses the term "historical control," which is a subset of "external control." FDA also accepts other types of external controls. An externally controlled trial compares a group of subjects receiving the test treatment with a group of patients external to the trial, rather than to an internal control group consisting of patients from the same trial population assigned to a different treatment. The external control can be a group of patients, treated or untreated, at an earlier time (historical control) or a group, treated or untreated, during the same time period but in another setting. An important subset of externally controlled trials are "baseline controlled trials," where there is not a specific external control group but assurance, based on experience, that no change could occur (e.g., tumors are known not to shrink spontaneously or patients not given general anesthetic remain awake). See International Conference on Harmonisation E10 guidance on Choice of Control Group and Related Issues in Clinical Trials (ICH E10). This guidance uses the term "external control," except when referring to section 314.126.

¹² See 35 FR 7250, 7251-7252 (May 8, 1970).

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193 However, each of the trial designs has distinct considerations; for example, the lack of blinding
194 when using a no treatment control could introduce bias, which may attenuate confidence in the
195 trial's results. The dose-comparison design may support the effectiveness of the highest dose
196 when a positive dose response is seen, but could leave uncertainty about whether lower tested
197 doses were effective.

198
199 Although demonstrating that a new drug is superior to an active control provides strong evidence
200 of effectiveness, a common goal of active controlled trials is to show non-inferiority (NI), i.e.,
201 that the new drug is not less effective than the active control by a specified amount, that amount
202 being no larger than the effect the active control was expected (the effect is not measured) to
203 have had in the NI trial based on the drug's past performance in trials. Showing such non-
204 inferiority allows a conclusion that the new drug is effective.¹³ In general, with regard to
205 establishing effectiveness, NI designs are credible and appropriate only in situations in which the
206 active control has shown a consistent effect (generally compared with placebo) in prior
207 superiority trials conducted in a patient population similar to the population in the clinical
208 investigation being planned. Unless a placebo group (or other treatment group where the intent
209 is to demonstrate superiority of the test drug) is also included, these NI trials depend on the
210 assumption, not confirmed in the trial, that the active control had its anticipated effect (which is
211 the basis for the NI margin) in the trial. As a result, the strength of evidence that may result from
212 an NI trial can vary considerably depending on the specific disease setting and the choice of
213 active control. An NI trial that meets its objective (with respect to the pre-specified statistical
214 testing plan) could mean either that both drugs were effective or, if neither control nor drug has
215 its expected effect, that neither was effective in the trial. Because interpretation of NI trials
216 depends on assumptions not confirmed in the trial, this design is usually chosen when it would
217 be unethical or infeasible to conduct one of the superiority designs discussed above (e.g., when
218 withholding available therapy would not be clinically acceptable and the new drug is being
219 studied as an alternative, rather than as an adjunct, to available therapy).

220
221 Externally controlled trials differ in several important ways from the other trial designs identified
222 in 21 CFR 314.126. Most notably, random assignment is not a feature of external control
223 designs. As a result, there may be differences in patient characteristics or concomitant
224 treatments in the trial population compared to the external control population that lead to
225 differences in outcomes that are unrelated to the investigational treatment. In addition, the lack
226 of blinding could introduce bias. For these reasons, external control designs are usually reserved
227 for specific circumstances, such as trials of diseases with high and predictable mortality or
228 progressive morbidity (e.g., certain malignancies or certain rare diseases) and trials in which the
229 effect of the drug is self-evident (e.g., general anesthetics).

230
231 Despite the limitations of externally controlled trials compared with concurrently controlled
232 trials, strong support for effectiveness can emerge from externally controlled trials, especially
233 when (1) the natural history of a disease is well defined, (2) the external control population is
234 very similar to that of the treatment group, (3) concomitant treatments that affect the primary
235 endpoint are not substantially different between the external control population and the trial
236 population, and (4) the results provide compelling evidence of a change in the established
237 progression of disease. Such results could include partial or complete response in a disease

¹³ FDA guidance on Non-Inferiority Clinical Trials to Establish Effectiveness.

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238 where spontaneous regression is not observed, or stabilization or improvement in function in a
239 disease where progressive functional decline is well documented to occur over the duration of
240 the treatment period in the trial. Another example of where there is strong evidence of drug
241 effectiveness is reversal of clinical signs and symptoms following a toxic exposure or overdose
242 after administration of a drug antidote. In all such circumstances, a detailed understanding of the
243 full range of possible clinical outcomes, with a well-documented natural history of the disease in
244 the absence of treatment, is essential to interpreting trial results and, therefore, drawing a
245 conclusion about the effectiveness of the drug.

246
247 It is important to recognize that trial design alone does not determine whether evidence from the
248 trial is sufficient to establish substantial evidence of effectiveness. For example, compelling
249 results may overcome challenges associated with less rigorous trial designs, such as those with
250 an external control. As discussed above, a small externally controlled trial with an outcome
251 markedly superior to the well-established natural history of a disease may provide a compelling
252 case for drug effectiveness. Similarly, a successful active-controlled NI trial of a new
253 antimicrobial drug or of a new anticoagulant to prevent stroke in patients with atrial fibrillation
254 can provide strong evidence of effectiveness when it is well-established that the effect of the
255 control antimicrobial or anticoagulant drug is large.

256
257 Poor execution can render a trial of any design to be not adequate or not well-controlled and,
258 therefore, unable to provide substantial evidence of effectiveness. Examples of this include (1) a
259 randomized, double-blind, placebo-controlled trial where there is extensive drop-out of trial
260 patients (with the potential for informative censoring), and (2) a randomized, double-blind,
261 placebo-controlled trial in which unblinding is common due to an effect of the test drug, and
262 where a modest treatment effect is found on a primary endpoint that is subject to bias when drug
263 assignment is known (e.g., a physician global impression). In these cases, the trials might not be
264 considered adequate and well-controlled.

B. Trial endpoints

265
266
267
268 One of the characteristics of an adequate and well-controlled clinical investigation is that “the
269 methods of assessment of subjects’ response are well-defined and reliable.”¹⁴ Such a method of
270 assessment can be a clinical endpoint¹⁵ or, where appropriate, a surrogate endpoint.¹⁶

271

¹⁴ 21 CFR 314.126(b)(6).

¹⁵ An endpoint is a precisely defined variable intended to reflect an outcome of interest as a measure of drug effect that is prespecified (i.e., chosen before the data are analyzed) and statistically analyzed to address a particular research question. A definition of “clinical endpoint” is provided in FDA guidance on Expedited Programs for Serious Conditions – Drugs and Biologics (FDA guidance on expedited programs). A clinical endpoint can be used to support traditional approval.

¹⁶ A definition of “surrogate endpoint” is provided in FDA guidance on expedited programs. A surrogate endpoint that has been shown to predict a specific clinical benefit can be used to support traditional approval. A surrogate endpoint that is reasonably likely to predict clinical benefit can be used to support accelerated approval. Accelerated approval can also be based on an effect on a clinical endpoint that can be measured earlier than irreversible morbidity or mortality (IMM) and that is reasonably likely to predict an effect on IMM or other clinical benefit. See FDA web page on Table of Surrogate Endpoints That Were the Basis of Drug Approval or Licensure, available at <https://www.fda.gov/Drugs/DevelopmentApprovalProcess/DevelopmentResources/ucm613636.htm>.

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272 Although the statutory standard for effectiveness does not refer to particular endpoints or state a
273 preference for clinical endpoints over surrogate endpoints, it is well established that the effect
274 shown in the adequate and well-controlled clinical investigations, must be, in FDA’s judgment,
275 clinically meaningful.¹⁷

276

277 Many disease specific guidances have been issued by the Agency that can assist sponsors in
278 identifying an appropriate trial endpoint. In addition, discussion with appropriate review
279 divisions early in clinical development can assist sponsors in identifying appropriate trial
280 endpoints for a particular development program.

281

C. Statistical considerations

282

283 The strength of evidence in each trial contributing to meeting the substantial evidence standard
284 should be assessed by appropriate statistical methods. The uncertainty about the findings from
285 each trial should be sufficiently small and the findings should be unlikely to result from chance
286 alone, as demonstrated by a statistically significant result or a high posterior probability of
287 effectiveness.¹⁸ Statistical approaches should be specified in advance, to limit erroneous
288 conclusions resulting from multiplicity.

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IV. THE QUANTITY OF CLINICAL EVIDENCE TO ESTABLISH EFFECTIVENESS

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A. Meeting the substantial evidence standard based on two adequate and well-controlled clinical investigations

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1. Two adequate and well-controlled clinical investigations

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In many situations FDA requires two adequate and well-controlled trials to establish effectiveness. This reflects the need for substantiation of experimental results, which has often been referred to as the need for replication of the finding. Replication may not be the best term, however, as it may imply that precise repetition of the same experiment in other patients by other investigators is the only means to substantiate a conclusion. Although two positive identically designed and conducted trials can provide substantial evidence of effectiveness, precise replication of a trial is only one of a number of possible means of obtaining substantiation of a clinical finding and, at times, can provide less persuasive evidence of benefit, as it could leave the conclusions of both trials vulnerable to any systematic biases inherent to the particular study design.

Two positive trials with differences in design and conduct may be more persuasive, as unrecognized design flaws or biases in study conduct will be less likely to impact the outcomes of both trials. The consistency of results across two trials also greatly reduces the possibility that a biased, chance, site-specific, or fraudulent result will lead to an erroneous conclusion that a

¹⁷ See preamble to FDA final rule on accelerated approval (57 FR 58942, 58944 (December 11, 1992)).

¹⁸ In a Bayesian framework the strength of evidence is assessed by the probability that the drug is effective given the data rather than by statistical significance.

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315 drug is effective. Such trials also may be more informative: for example, two positive trials
316 using the same endpoint but with distinct study populations within the same proposed indication
317 (e.g., one trial studying a new glucose-lowering drug in patients with type 2 diabetes receiving
318 only diet and exercise therapy, and a second trial in patients with type 2 diabetes already on two
319 or three oral antihyperglycemic agents) may provide evidence that is more generalizable to the
320 population that will take the drug than two identical trials in a narrower population. Similarly,
321 two trials in the same disease using different but related clinical endpoints could support
322 effectiveness and provide broader information about the drug's effect (e.g., one trial showing
323 symptom improvement and a second trial showing improved survival in a more severely ill
324 population).

325
326 2. *One adequate and well-controlled large multicenter trial that can provide*
327 *substantial evidence of effectiveness*

328
329 In general, substantiation of a drug's effectiveness obtained with two trials, especially with
330 complementary design, as discussed above, will provide more convincing evidence of
331 effectiveness than would a single trial. In some circumstances, however, there may not be a
332 meaningful difference between the strength of evidence provided by a single large multicenter
333 adequate and well-controlled trial and that provided by two smaller adequate and well-controlled
334 trials. In such cases, the large multicenter trial can be considered, both scientifically and legally,
335 to be, in effect, multiple trials and can be relied on to provide substantial evidence of
336 effectiveness. Large multicenter trials can include a broad range of subjects and investigation
337 sites and have procedures in place to ensure trial quality (e.g., investigation site selection,
338 monitoring, and auditing). They generally are less vulnerable to certain biases such as selection
339 or measurement bias, are often more generalizable to the intended population, and can often be
340 evaluated for internal consistency across subgroups, centers, and multiple endpoints.

341
342 Reliance on a single large multicenter trial to establish effectiveness should generally be limited
343 to situations in which the trial has demonstrated a clinically meaningful and statistically very
344 persuasive effect on mortality, severe or irreversible morbidity, or prevention of a disease with
345 potentially serious outcome, and with other characteristics described below, and confirmation of
346 the result in a second trial would be impracticable or unethical. For example, conducting a
347 second trial after a strongly positive trial had demonstrated a decrease in post-infarction
348 mortality, or prevention of pertussis would generally present significant ethical concerns.
349 Repetition of positive trials showing only symptomatic benefit would generally not present the
350 same ethical concerns.

351
352 In addition to the expectation that the single trial is large and multicenter, there should be no
353 single trial site that is the main contributor to the observed effect, either by virtue of having a
354 much bigger effect or many more patients than other sites; these characteristics help address
355 concerns about bias and chance findings associated with a single trial. As noted above it would
356 also be expected that the effect size on the primary endpoint and the statistical analysis results
357 are both persuasive.

358
359 Other characteristics, discussed below, also support the persuasiveness of a single trial in
360 supporting the conclusion that there is substantial evidence of effectiveness. Finding consistent,

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361 and clinically meaningful effects on distinct prospectively specified endpoints (e.g., an effect on
362 both myocardial infarction and stroke for a drug being studied for cardiovascular benefit) can
363 provide further evidence that the results are not due to chance. Moreover, an effect on a
364 meaningful, objective endpoint, such as certain imaging endpoints, may complement a more
365 subjective endpoint, such as a clinician- or patient-reported outcome. In these cases, the internal
366 consistency across endpoints not only reduces the possibility of a chance finding but also may
367 further support the clinical utility of the results.

368
369 Frequently, large multicenter trials have relatively broad entry criteria and the trial populations
370 may be diverse with regard to important covariates such as concomitant or prior therapy, disease
371 stage, age, sex or race. Analysis of the results of such trials for consistency across important
372 patient subgroups can address concerns about generalizability of findings to various populations
373 in a manner that may not be possible with smaller trials or trials with more narrow entry criteria.

374
375 Furthermore, there may be other characteristics of a large multicenter trial that increase
376 confidence in its results. For example, the multicenter trial may sometimes be appropriately
377 analyzed as “multiple trials” within a single trial. An example is a 4-arm (“2×2 factorial”) trial
378 (placebo, drug A, drug B, and drug A + drug B) in which the effectiveness of drug A could be
379 supported by two controlled comparisons if the combination of drug A + drug B is superior to
380 drug B alone *and* drug A is superior to placebo.

381
382 Although a large multicenter trial with robust results can be persuasive, even a robust result can
383 arise from bias. For example, although two consistent findings within a single trial usually
384 provide reassurance that a positive treatment effect is not due to chance, they do not protect
385 against bias in trial conduct, biased analyses, or fraud. Thus, close scrutiny of trial conduct,
386 including, for example, completeness of follow-up, methods of analysis, imputation of missing
387 data, evaluation of trial endpoints, is critical to evaluating such trials. Findings from other trials
388 that are not consistent with the findings of the single positive trial would need to be considered
389 collectively, and could weaken the overall strength of evidence.

390
391 **B. Meeting the substantial evidence standard based on one adequate and well-**
392 **controlled clinical investigation plus confirmatory evidence**

393
394 Under certain circumstances and consistent with FDAMA, FDA can conclude that one adequate
395 and well-controlled clinical investigation plus confirmatory evidence is sufficient to establish
396 effectiveness. FDA will consider a number of factors when determining whether reliance on a
397 single adequate and well-controlled clinical investigation plus confirmatory evidence is
398 appropriate. These factors may include the persuasiveness of the single trial; the robustness of
399 the confirmatory evidence; the seriousness of the disease,¹⁹ particularly where there is an unmet
400 medical need; the size of the patient population; and whether it is ethical and practicable to
401 conduct more than one adequate and well-controlled clinical investigation. Sponsors intending
402 to establish substantial evidence of effectiveness using one adequate and well-controlled clinical

¹⁹ While seriousness of the disease is one of the factors that FDA considers, reliance on a single trial plus confirmatory evidence to establish effectiveness is not limited only to drugs for “serious diseases,” as the term is defined in 21 CFR 312.300(b)(1).

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Draft — Not for Implementation

403 investigation plus confirmatory evidence should consult FDA in advance to discuss the
404 appropriateness of such an approach for their development program.

405
406 Confirmatory evidence could include, for example, adequate and well-controlled clinical
407 investigations in a related disease area, certain types of real world evidence²⁰ such as extensive
408 data on outcomes that provide further support for the lack of effect seen in the control group in
409 the randomized trial, compelling mechanistic evidence in the setting of well-understood disease
410 pathophysiology (e.g., pharmacodynamic data or compelling data from nonclinical testing), or
411 well-documented natural history of the disease.

412
413 Below are examples of when a single adequate and well-controlled clinical investigation,
414 together with confirmatory evidence, can establish effectiveness. The strength of the single trial
415 will affect the extent of confirmatory evidence required – for example, a trial showing
416 compelling efficacy results (but not rising to the level that would be provided by a large
417 multicenter trial, as discussed in Section IV.A.2) may require less confirmatory evidence.

418
419 *1. One adequate and well-controlled clinical investigation on a new indication for*
420 *an approved drug, supported by existing adequate and well-controlled clinical*
421 *investigation(s) that demonstrated the effectiveness of the drug for its other,*
422 *closely related approved indication(s)*

423
424 To establish effectiveness for a new indication of a product already approved by FDA – where
425 the new indication is closely related to the other approved indication(s) – substantial evidence of
426 effectiveness can be based on one adequate and well-controlled clinical investigation, generally a
427 randomized concurrently controlled trial, of the new indication, supported by the confirmatory
428 evidence provided by the existing adequate and well-controlled clinical investigation(s) that
429 established effectiveness of the product for the related indication(s). See Section II.C.2 of the
430 1998 guidance for more details.

431
432 *2. One adequate and well-controlled clinical investigation supported by data that*
433 *provide strong mechanistic support*

434
435 A single adequate and well-controlled clinical investigation, generally a randomized
436 concurrently controlled trial, together with earlier phase clinical results and/or testing that
437 provide compelling mechanistic evidence in the setting of well-understood disease
438 pathophysiology, may be sufficient to provide substantial evidence of effectiveness of a new
439 drug or a new indication. The mechanistic evidence would generally be obtained from clinical
440 testing using a relevant and well understood pharmacodynamic endpoint not accepted by itself as
441 an endpoint to establish evidence of effectiveness. It also could be collected from other sources,
442 such as animal studies (e.g., those using an established, relevant animal model to study the effect
443 of the drug on a pharmacodynamic marker of known relevance to humans), or a combination of

²⁰ Real world evidence is the clinical evidence regarding the usage, and potential benefits or risks, of a medical product derived from analysis of real world data. Real world data are data relating to patient health status and/or the delivery of health care routinely collected from a variety of sources. See FDA real world evidence web page, available at <https://www.fda.gov/science-research/science-and-research-special-topics/real-world-evidence>.

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444 the two.²¹ An example is enzyme replacement therapy, where a single adequate and well-
445 controlled clinical investigation that demonstrates the therapy's efficacy is supported by
446 evidence that the condition is caused by the enzyme deficiency and by earlier results that show
447 the therapy increases enzyme activity to biologically active levels at the appropriate site and/or
448 reduces disease-specific substrates. Another example could be a trial of a drug which is a
449 mineral or vitamin replacement that showed restoration of accepted normal concentrations, in
450 concert with a prior large body of information showing the clinical consequences of deficiency
451 states.

- 452
453 3. *One adequate and well-controlled clinical investigation with compelling results,*
454 *supported by additional data from the natural history of the disease*
455

456 In certain circumstances, FDA accepts one adequate and well-controlled clinical investigation
457 that has generated compelling results as the basis to demonstrate effectiveness, when the single
458 trial is supported by additional data from the natural history of the disease that reinforce the very
459 persuasive finding. For example, a single trial showing marked improvement in survival
460 compared to a control group, either external to the trial or concurrent, could be supported by data
461 from separate sources (e.g., a natural history study, case report forms, or registries) that
462 demonstrate a very limited median survival time or other clinically highly important outcome
463 without treatment. In this case, the natural history data would represent confirmatory evidence.
464

- 465 4. *One adequate and well-controlled clinical investigation of the new drug,*
466 *supported by scientific knowledge about the effectiveness of other drugs in the*
467 *same pharmacological class*
468

469 In certain circumstances, FDA accepts one adequate and well-controlled clinical investigation as
470 the basis to demonstrate effectiveness, when the single trial is supported by confirmatory
471 evidence of effectiveness from adequate and well-controlled trials of other drugs in the same
472 pharmacological class.²² For example, the approval of two angiotensin II receptor blockers,
473 losartan and irbesartan, for the treatment of diabetic nephropathy in patients with type 2 diabetes,
474 hypertension, and abnormal kidney function, was based on effectiveness data from a single trial
475 of each drug, supported by similarly favorable results from a single trial of the other drug. In this

²¹ FDA supports the principles of the "3Rs," to reduce, refine, and replace animal use in testing when feasible. FDA encourages sponsors to consult with us if they wish to use a non-animal testing method they believe is suitable, adequate, validated, and feasible. FDA will consider if such an alternative method could be assessed for equivalency to an animal test method.

²² Reliance on data concerning a different drug raises legal issues that will need to be considered in each case. If the applicant owns the data concerning the other drug, or has a right to refer to those data, such as a license, then the legal concerns are satisfied. In the example of losartan and irbesartan cited in the text, the two applicants each agreed to permit the other to rely on their data. If there is not such permission, for an NDA, the question will be raised whether the reliance makes the application a 505(b)(2) application. If so, that may require compliance with patent certification requirements applicable to such applications and may mean that the submission or approval of the application will be affected by statutory exclusivity provisions. For a BLA, in certain circumstances reliance on data not owned by the applicant, that is not in the public domain, and for which the applicant does not have a right of reference would raise additional legal considerations.

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476 case, the two single trials supplied the needed confirmatory evidence for each other, as neither
477 drug would have been approved for this indication based on the single trial alone.²³

478
479 Whether this scenario applies to a particular development program depends on a number of
480 factors, including but not limited to: (1) the strength of the evidence for effectiveness from the
481 single trial; and (2) the relevance of the additional data derived from other drugs in the same
482 class, including the similarity between the new drug and other drugs in the same class,
483 particularly the pharmacologic activity or specificity of mechanism of action.²⁴

484
485 **C. Meeting the substantial evidence standard for a new population or a**
486 **different dose, regimen, or dosage form, based on reliance of FDA’s previous**
487 **finding of effectiveness of an approved drug when scientifically justified and**
488 **legally permissible**

489
490 When scientifically justified and legally permissible, FDA can rely on its previous finding of
491 effectiveness of an approved drug to conclude that the drug “will have the effect it purports or is
492 represented to have,”²⁵ thus not requiring additional adequate and well-controlled clinical
493 efficacy trials. Ordinarily, this will be because other types of evidence provide a way to apply
494 the known effectiveness to a new population or a different dose, regimen, or dosage form. For
495 example, the effectiveness of a drug for pediatric use can sometimes be based on FDA’s previous
496 finding of effectiveness of the drug in adults, together with scientific evidence that justifies such
497 reliance.²⁶ In this case, the scientific evidence may include, for example, evidence supporting a
498 conclusion of similar disease course and pathophysiologic basis in adult and pediatric
499 populations, and similar pharmacologic activity of the drug in adults and children (e.g., similar
500 concentration-response relationships), as well as similar blood levels of the drug in adults and
501 children. The effectiveness of new dosage forms or dosing regimens may be demonstrated by
502 the effectiveness trial(s) on the original dosage form or regimen, together with evidence that both
503 the dosage forms or regimens have similar pharmacokinetic (PK) profiles. In this case no new
504 effectiveness or pharmacodynamic data would be needed, but sufficient safety data would still be
505 needed. See Section II.C.1. of the 1998 guidance for more details.

506
507

²³ See Secondary Review Memo on losartan, May 3, 2002, available at https://www.accessdata.fda.gov/drugsatfda_docs/nda/2002/20386-S028_COZAAR_Medr1.pdf; see also the FDA-approved labels for both products.

²⁴ A product development program under this scenario may result in a small safety database. Sponsors should consult FDA guidance on Premarketing Risk Assessment, which notes that the appropriate size of a safety database depends on a number of factors specific to the product; two of them are particularly relevant to this scenario, i.e., the product’s novelty (i.e., whether it represents a new treatment or is similar to available treatment) and the availability of alternative therapies and the relative safety of those alternatives as compared to the new product. For more details, see FDA guidance on Premarketing Risk Assessment.

²⁵ See the statutory definition of “substantial evidence” in section 505(d) of the FD&C Act.

²⁶ Section 505B(a)(2)(B)(i) of the FD&C Act (21 U.S.C. § 355c(a)(2)(B)(i)).

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Draft — Not for Implementation

508 **V. EXAMPLES OF CLINICAL CIRCUMSTANCES WHERE ADDITIONAL** 509 **FLEXIBILITY MAY BE WARRANTED**

510
511 The statutory standard of “substantial evidence” contains both a statement of what kind of
512 evidence must exist (“adequate and well-controlled investigations”) and also an element of
513 expert judgment. Thus the standard requires that the investigations be such that “it could fairly
514 and responsibly be concluded by [qualified] experts that the drug will have the effect it purports
515 or is represented to have,”²⁷ and permits approval on the basis of one trial and confirmatory
516 evidence only “If [FDA] determines, based on relevant science, that data . . . are sufficient to
517 establish effectiveness.” For example, while FDA regulations outline five different types of
518 studies that might be considered adequate and well-controlled,²⁸ it has always been recognized
519 that some designs (e.g., placebo concurrent control) provide more certainty than others (e.g.,
520 external controls). FDA experts may “fairly and responsibly” rely on study designs that produce
521 less certainty in some circumstances when a better design is not feasible or ethical. This may be
522 the case for life-threatening and severely debilitating diseases with an unmet medical need, for
523 certain rare diseases, or potentially even for a more common disease where the availability of
524 existing treatments makes certain design choices infeasible or unethical. FDA would not,
525 however, find it responsible to rely on such design choices in other situations in which, for
526 example, the drug will be used for a less serious disease and greater certainty about benefits and
527 risks is needed, or in cases where designs providing more certainty are possible. In all cases,
528 FDA must reach the conclusion that there is substantial evidence of effectiveness to approve a
529 drug; however, the degree of certainty supporting such a conclusion may differ, depending on
530 clinical circumstances (e.g., severity and rarity of the disease and unmet medical need).

531
532 This reflects the longstanding awareness that, in certain settings, a somewhat greater risk
533 (compared to placebo-controlled or other randomized superiority trials) of false positive
534 conclusions – and therefore less certainty about effectiveness – may be acceptable, when
535 balanced against the risk of rejecting or delaying the marketing of an effective therapy, as
536 described below for an unmet medical need. The data supporting effectiveness could, despite the
537 greater risk of error, support a conclusion that there is substantial evidence of effectiveness.
538 Therefore, when selecting a trial design, a sponsor should consider the specific clinical
539 circumstance, including the severity of the disease, unmet medical need (e.g., whether there is
540 available therapy), the rarity of the disease, and whether it is feasible and ethical to conduct a
541 randomized concurrently controlled superiority trial.

542 543 **A. When the disease is life-threatening or severely debilitating with an unmet** 544 **medical need**

545
546 As defined in 21 CFR 312, subpart E (21 CFR 312.81), the term “life-threatening” means
547 diseases or conditions where the likelihood of death is high unless the course of the disease is
548 interrupted, and diseases or conditions with potentially fatal outcomes, where the endpoint of
549 clinical trial analysis is survival; the term “severely debilitating” means diseases or conditions

²⁷ The law is clear that it is the FDA which “must determine, after giving full consideration to all of the evidence that has been submitted, including expert opinions, if the studies meet the regulatory criteria and show effectiveness.” *Warner-Lambert Co. v. Heckler*, 787 F.2d 147, 154 (3rd Cir. 1986).

²⁸ 21 CFR 314.126(b)(2).

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Draft — Not for Implementation

550 that cause major irreversible morbidity. An unmet medical need is a condition whose treatment
551 or diagnosis is not addressed adequately by available therapy.²⁹

552
553 Subpart E regulations promulgated in 1988³⁰ call for FDA to exercise its broad scientific
554 judgment in applying the evidentiary approval standards to drugs for life-threatening and
555 severely debilitating diseases, especially where there is no satisfactory alternative therapy. In
556 addition, the accelerated approval regulations built upon this recognition by acknowledging that
557 reliance on a surrogate endpoint “almost always introduces some uncertainty into the risk/benefit
558 assessment, because clinical benefit is not measured directly and the quantitative relation of the
559 effect on the surrogate to the clinical effect is rarely known.”³¹ Together these regulations
560 recognize the importance of facilitating the development of, and access to, safe and effective
561 treatment options for life-threatening and severely debilitating diseases with unmet medical
562 needs. This approach has been reinforced by FDA’s interactions with patients and their
563 caregivers who describe their willingness to accept less certainty about effectiveness in return for
564 earlier access to much needed medicines. For example, for a life-threatening disease without any
565 available treatment, FDA might accept the results of adequate and well-controlled investigations
566 with less rigorous designs, such as a historically controlled study. Below are considerations for
567 drugs developed for life-threatening and severely debilitating diseases.

1. Trial design

568
569
570
571 While a randomized placebo-controlled trial can provide more definitive evidence of a small
572 treatment effect than any other kind of trial of the same size, there are instances when this design
573 and other concurrently controlled superiority designs may not be feasible or ethical. In such
574 settings, other trial designs, such as non-inferiority trials or externally controlled trials can be
575 acceptable if they provide substantial evidence of effectiveness (see discussion of noninferiority
576 design and external control in Section III.A).

2. Trial endpoints

577
578
579
580 As discussed in Section III.B, endpoint selection is an important consideration in clinical trial
581 design. The most straightforward and readily interpreted endpoints are those that directly
582 measure clinical benefit or are validated surrogate endpoints shown to predict clinical benefit.
583 Surrogate endpoints that are reasonably likely to predict clinical benefit can be relied on to
584 establish effectiveness under the accelerated approval pathway. Effects on intermediate clinical
585 endpoints can also be a basis for accelerated approval. Surrogate and intermediate clinical
586 endpoints often can be assessed sooner than an endpoint that directly measures the clinical
587 benefit or irreversible morbidity or mortality. Note that for accelerated approval the evidentiary
588 standard still applies – that is, there must be substantial evidence that the drug has a meaningful
589 effect on the surrogate or intermediate clinical endpoint.

²⁹ FDA guidance on expedited programs.

³⁰ 21 CFR 312.80, subpart E; 21 CFR 314.105(c).

³¹ The preamble to the final rule on accelerated approval also notes, when responding to a comment, that “[a]lthough studies using surrogate endpoints may provide less assurance of clinical benefit than studies using clinical endpoints, FDA believes compliance with all of the elements of the accelerated approval program will not result in the marketing of large numbers of clinically ineffective drugs.” 57 FR 58942, 58944 (December 11, 1992).

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Draft — Not for Implementation

590 3. *Number of trials*

591
592 Although two adequate and well-controlled clinical investigations remain the standard approach
593 to generating substantial evidence of effectiveness in many disease settings, there are scenarios
594 where the conduct of a second trial is not ethical or feasible.

595
596 For example, as discussed in section IV.A.2, when a large multicenter trial has demonstrated a
597 clinically meaningful and statistically very persuasive effect on mortality, irreversible morbidity,
598 or prevention of a disease with potentially serious outcome, a second trial would be
599 impracticable or unethical. In this case the single large multicenter trial would be considered
600 sufficient to establish effectiveness.

601 602 4. *Statistical considerations*

603
604 A typical criterion for concluding that a trial is positive (showed an effect) is a p value of < 0.05
605 (two sided). A lower p value, for example, would often be expected for reliance on a single trial.
606 For a serious disease with no available therapy or a rare disease where sample size might be
607 limited, as discussed further below, a somewhat higher p value – if prespecified and
608 appropriately justified – might be acceptable.

609 610 **B. When the disease is rare**

611
612 By statutory definition, a rare disease – including a genetically defined subset of a disease –
613 affects fewer than 200,000 people in the U.S.;³² but many rare diseases affect far fewer patients.
614 A large number of rare diseases are pediatric diseases or have childhood onset. In addition,
615 many rare disorders are life-threatening or severely debilitating diseases with no approved
616 treatments, leaving substantial unmet medical needs for patients. Therefore, many of the
617 considerations discussed above also apply to development programs for rare diseases.

618
619 FDA has a history of applying the philosophy underlying subpart E regulations to drugs for rare
620 diseases. FDA recognizes that certain aspects of drug development that are feasible for common
621 diseases may not be feasible for rare diseases and that development challenges are often greater
622 with increasing rarity of the disease. The small population affected by a rare disease presents
623 additional considerations that must be addressed and also calls for appropriate flexibility,
624 discussed below.

625 626 1. *Trial design*

627
628 Because of the small number of patients with a rare disease, the number of patients eligible for
629 enrollment in a trial may be small. In such situations, it is especially important to consider the
630 advantages and disadvantages of various trial designs to achieve the objectives of establishing
631 evidence of effectiveness as well as safety. Randomized, placebo-controlled trials with equal
632 allocation are generally the most efficient designs to assess effectiveness; however, depending on
633 the circumstances, sponsors should consider alternatives such as unequal allocation in a
634 randomized controlled trial (i.e., more patients receive the new drug than the control), which can

³² Section 526(a)(2) of the FD&C Act (21 U.S.C. 360bb(a)(2)).

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Draft — Not for Implementation

635 provide increased safety experience and reduce the use of placebo, or a dose-comparison design
636 (i.e., randomization to more than one dose, with or without placebo). If the effect of the drug can
637 be discerned relatively quickly after starting or discontinuing the drug, designs such as cross-
638 over trials, randomized withdrawal, or randomized delayed start should also be considered.
639 Sometimes, as noted previously, a single-arm trial with an external control is an appropriate
640 option. The ability of these or other trial designs to generate substantial evidence of
641 effectiveness is dependent on the specifics of each situation.

642
643 Sponsors of drugs intended for rare diseases should consider designing their first-in-human trial
644 to be an adequate and well-controlled clinical investigation that has the potential, depending on
645 the trial results, to provide part of the substantial evidence of effectiveness to support a
646 marketing application.³³

647 648 2. *Trial endpoints*

649
650 Understanding of the pathophysiology of the underlying disease is important in planning clinical
651 trials, including selection of endpoints. For many rare diseases, well-characterized clinical
652 efficacy endpoints appropriate for the disease may need to be developed. In cases where
653 utilizing clinical endpoints is not feasible because changes in symptoms and disease status occur
654 too slowly to be measured in a clinical trial of reasonable duration, surrogate endpoints may be
655 considered. It will be particularly important to understand the pathophysiology and natural
656 history of the disease to help identify potential surrogate endpoints.

657 658 3. *Number of trials*

659
660 A second trial may be infeasible in certain rare disease settings where the limited patient
661 populations preclude the conduct of a second trial. A similar situation may also arise when a
662 drug is developed to target, for example, a low-frequency, molecularly defined subset of a more
663 common disease and it may not be possible to screen and enroll enough patients within a
664 reasonable period of time to conduct the second trial.³⁴ In these cases, the substantial evidence
665 of effectiveness would typically be provided by a single trial plus confirmatory evidence.

666 667 4. *Statistical considerations*

668
669 As noted above, treatments for rare diseases often are intended to address unmet medical needs,
670 and the considerations of balancing the harmful consequences of false positive and false negative
671 results will often apply. In addition, the amount of evidence that can practically be acquired may
672 be limited by the number of patients who can be recruited for trials. FDA may interpret the
673 substantial evidence standard flexibly considering the harmful consequences of false negative
674 and false positive results and the amount of evidence that can practically be acquired. Statistical
675 approaches to evaluating treatments for rare diseases should consider the feasibility of trial

³³ Draft guidance for industry *Human Gene Therapy for Rare Diseases* (July 2018). When final, this guidance will represent the Agency's thinking on the topic it addresses.

³⁴ Guidance for industry *Developing Targeted Therapies in Low-Frequency Molecular Subsets of a Disease* (October 2018).

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Draft — Not for Implementation

676 design, sample size, and endpoints, using methods and thresholds for demonstrating substantial
677 evidence that are appropriate to these settings.

678

C. When conducting a human efficacy trial is not ethical or feasible

680

681 When it is not ethical or feasible to conduct clinical trials, FDA can allow the use of appropriate
682 animal models to generate evidence to establish effectiveness for products intended to treat or
683 prevent serious or life-threatening conditions caused by exposure to toxic biological, chemical,
684 radiological, or nuclear substances. FDA’s regulation governing these trials is known as the
685 Animal Rule.³⁵

³⁵ The Animal Rule “applies to certain new drug products that have been studied for their safety and efficacy in ameliorating or preventing serious or life-threatening conditions caused by exposure to lethal or permanently disabling toxic biological, chemical, radiological, or nuclear substances.” 21 CFR 314.600; see also 21 CFR 601.90 (same restriction with respect to biological products).