FY 2018

PERFORMANCE REPORT TO CONGRESS

for the

Animal Generic 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 Generic Drug User Fee Act (AGDUFA). On August 14, 2008, AGDUFA was signed into law. AGDUFA amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by authorizing the first generic animal drug user fee program from FY 2009 through FY 2013. On June 13, 2013, AGDUFA was reauthorized for an additional 5 years (FY 2014 through FY 2018), referred to as AGDUFA II. This report marks the final year of AGDUFA II.

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 performance goals for 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 generic new animal drug review process. The timely approval of generic animal drugs continues to be a critical component of animal health because it provides access to additional sources of animal drugs for ranchers, farmers, and pet owners. Since AGDUFA was enacted, FDA has dramatically reduced average review times from 700 days to less than 270 days. Under the leadership of the President and in collaboration with Congress and industry, FDA looks forward to continued success in the generic new animal drug review program.

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

Acronyms

AGDUFA – Animal Generic Drug User Fee Act

ANADA – Abbreviated New Animal Drug Application

CBE-30 – Changes Being Effected in 30 Days

CFR – Code of Federal Regulations

CMC – Chemistry, Manufacturing, and Controls

CVM – Center for Veterinary Medicine

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

JINAD – Generic Investigational New Animal Drug

PAI – Pre-Approval Inspection

QbR – Question-based Review

Executive Summary

On June 13, 2013, the first reauthorization of AGDUFA, referred to as AGDUFA II, was signed into law, providing an additional 5 years (through FY 2018). The AGDUFA II program included a comprehensive set of FDA review performance goals and commitments designed to improve the timeliness and predictability of the review of abbreviated new animal drug applications (ANADAs) and reactivations, manufacturing supplemental ANADAs and reactivations, and generic investigational new animal drug (JINAD) submissions.

More information on the history of AGDUFA is available on the FDA website.[1]

Information Included in this Report

This report summarizes FDA's performance in meeting AGDUFA goals and commitments for FY 2017 and FY 2018. Specifically, it updates and finalizes performance data initially reported in the FY 2017 AGDUFA 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 AGDUFA II. Key activities and accomplishments during FY 2018 included the following:

- FDA met review-time goals for almost all (192 of 193) FY 2017 submissions that were pending at the start of FY 2018. FDA exceeded all (5 of 5) AGDUFA performance goals for the FY 2017 cohort.

- Preliminary performance results indicate that FDA met review-time goals for all (140 of 140) FY 2018 cohort submissions reviewed and acted on as of September 30, 2018. With 208 additional reviews pending that may yet be completed on time, FDA has the potential to exceed all five AGDUFA performance goals for the FY 2018 cohort.

[1] www.fda.gov/ForIndustry/UserFees/AnimalGenericDrugUserFeeActAGDUFA/default.htm

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Introduction

The Animal Generic Drug User Fee Act (AGDUFA) requires the Secretary of the Department of Health and Human Services (HHS) to submit two annual reports to Congress: (1) a performance report and (2) a financial report. This report is the Food and Drug Administration's (FDA or Agency) final annual performance report to Congress under AGDUFA II. Under AGDUFA II, FDA agreed to meet review performance goals for certain submissions over 5 years (FY 2014 through FY 2018). Further details on FDA's commitments under AGDUFA II can be found in the AGDUFA II Performance Goals and Procedures document on the FDA website. [2] AGDUFA is designed to bring greater predictability in review times for the generic animal drug industry by providing FDA with supplemental funding for the review of generic new animal drug submissions. AGDUFA accelerates the availability of safe and effective new generic animal drug 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 presents 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 abbreviated new animal drug applications (ANADAs) and reactivations, supplemental ANADAs and reactivations, generic investigational new animal drug (JINAD) studies, and JINAD 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. AGDUFA II review-time goals range from 100 days to 270 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 AGDUFA II performance goals.
- *Performance goals* are the percent of total submissions, agreed to under AGDUFA II, where FDA is expected to meet the review-time goal for a given type of submission. AGDUFA II performance goals call for FDA to meet the review-time goals 90 percent of the time for the defined fiscal year cohort.
- The performance statistics in this report are calculated using submissions received during a fiscal year (known as a receipt cohort). This methodology does not use the fiscal year in which FDA ultimately acted on 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 that year of receipt are adjusted to reflect the new completions. Therefore, until all submissions in a cohort are

[2] www.fda.gov/downloads/ForIndustry/UserFees/AnimalGenericDrugUserFeeActAGDUFA/UCM343235.pdf

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, 270 days) review performance data are usually limited. For those submissions with a shorter review-time goal (for example, 100 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 count presented in this report for FY 2018 include all submissions received in the last month of FY 2018. For AGDUFA review times, FDA calculates from the original receipt of the application or submission.
- Submissions that FDA identified as withdrawn, and reviews that were designated as "stop review" (applies to JINAD submissions only), 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

- **ANADA** – An ANADA is an abbreviated new animal drug application including all reactivations and supplements. This report presents original applications and reactivations, administrative applications, and supplemental applications and reactivations as separate goals.

- **JINAD file** – The generic investigational new animal drug file is the investigational file for generic animal drugs. The information submitted to the file may be used to support an ANADA. This report presents study submissions and protocols.

Sources:

ANADA - 21 CFR 514.3
www.ecfr.gov/cgi-bin/text-idx?SID=181eddb42cc61a7f590432800f56a462&node=se21.6.514_13&rgn=div8

JINAD file
www.fda.gov/downloads/AnimalVeterinary/GuidanceComplianceEnforcement/PoliciesProceduresManual/UCM204320.pdf

AGDUFA 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 AGDUFA 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 performance.

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 ANADAs and Reactivations	36	27	22	16	17	20	24	-17%
Administrative ANADAs	1	1	1	1	4	3	2	+50%
Manufacturing Supplemental ANADAs and Reactivations	132	151	152	156	173	189	153	+24%
JINAD Studies	25	59	54	63	66	96	53	+81%
JINAD Protocols	41	48	12	22	48	40	34	+18%

* FY 2017 numbers were changed to reflect updates to data presented in the FY 2017 AGDUFA Performance Report.
† FY 2018 numbers are preliminary and will be updated in the FY 2019 AGDUFA Performance Report.

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FY 2017 and FY 2018 AGDUFA Performance

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

Final FY 2017 Performance

FDA exceeded the 90 percent performance level for all five of the review performance goals for the FY 2017 cohort. Across all submission types, FDA met the review-time goal in 306 of 308 submissions.

Submission Type	Filed	Performance Goal: Act on 90 Percent within	On Time	Overdue	Percent on Time
Original ANADAs and Reactivations	17	270 days	17	0	100%
Administrative ANADAs	4	100 days	4	0	100%
Manufacturing Supplemental ANADAs and Reactivations	173[†]	270 days	172	1	99%
JINAD Studies	66[‡]	270 days	66	0	100%
JINAD Protocols	48[§]	100 days	47	1	98%

[†] A total of 180 submissions were received, but one submission received a refuse to review supplement, and six were withdrawn at the request of the sponsor.
[‡] A total of 74 submissions were received, but one received a refuse to accept, four received a refuse to review, and three submissions received a stop review.
[§] A total of 54 submissions were received, but five 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 140 of 348 submissions filed in FY 2018. FDA is currently exceeding the review-time goal for all five performance goals. With 208 submissions pending within goal, FDA has the potential to exceed the 90 percent performance level for all five review performance goals.

Submission Type	Filed	Performance Goal: Act on 90 Percent within	On Time	Overdue	Percent on Time	Pending within Goal	Highest Possible Percent on Time
Original ANADAs and Reactivations	20	270 days	6	0	100%	14	100%
Administrative ANADAs	3	100 days	2	0	100%	1	100%
Manufacturing Supplemental ANADAs and Reactivations	189[†]	270 days	56	0	100%	133	100%
JINAD Studies	96[‡]	270 days	43	0	100%	53	100%
JINAD Protocols	40[§]	100 days	33	0	100%	7	100%

[†] A total of 195 submissions were received, but six pending supplements were withdrawn at the request of the sponsor.
[‡] A total of 99 submissions were received, but one submission was a refuse to review, and two submissions received a stop review.
[§] A total of 41 submissions were received, but one received a refuse to review.

FY 2018 Process Improvement

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

- **Review Times.** The Agency agreed to develop a shortened review-time process for certain ANADA and JINAD submissions.

- **Timely Foreign Pre-Approval Inspections (PAIs)**. Under AGDUFA II, 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 an ANADA, supplemental ANADA, or JINAD file that may be subject to foreign PAIs.

- **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 JINAD file by the end of FY 2014.

- **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) (21 CFR 514.8(b)(3)).

- **CMC Comparability Protocols.** The Agency agreed to permit comparability protocols to be submitted as protocols without substantial data in a JINAD file.

- **A New Bioequivalence Submission Process.** Under AGDUFA II, by the end of FY 2016, depending on available resources, the Agency was to develop and implement a new question-based review (QbR) process for bioequivalence submissions.

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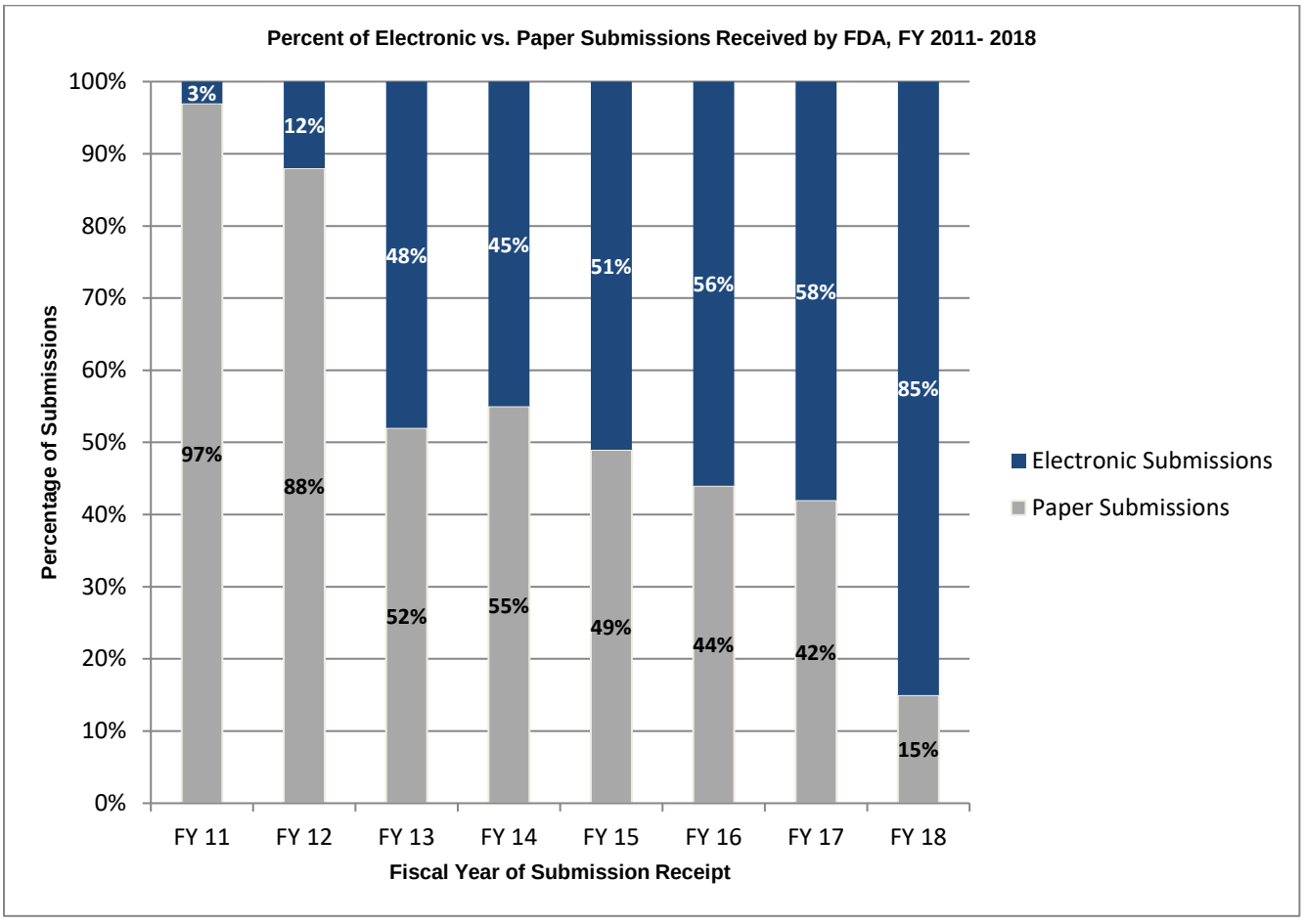
Major Accomplishments during FY 2018

- **Foreign Pre-Approval Inspections**. In an effort to improve communications, timeliness, and predictability related to foreign pre-approval inspections, sponsors can voluntarily submit a list of foreign manufacturing facilities anticipated to be included in the sponsor's generic new animal drug applications for the following year. For FY 2018, one sponsor voluntarily submitted lists of foreign manufacturing facilities anticipated to be included in generic new animal drug applications. FDA completed nine foreign pre-approval inspection assignments in FY 2018, with an average time of 110 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 the Center for Veterinary Medicine's (CVM) eSubmitter tool in FY 2011, there has been an overall decline in paper submissions. CVM received approximately 85 percent of its regulatory submissions electronically in FY 2018. There was a significant increase over the FY 2017 level due to increased training opportunities and support to prepare all sponsors for the system to go entirely electronic in FY 2019.



- **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. This new submission process permits the submission and review of early completed CMC information that may increase the timely completion of the entire CMC Technical Section. In FY 2018, CVM received one first-phase submission according to the two-phased data submission process.

  - **Permit prior approval manufacturing supplements to be resubmitted as CBE-30.** In FY 2018, three incomplete prior-approval manufacturing supplements were permitted to be resubmitted as CBE-30. The total number of incomplete prior-approval manufacturing supplements was six. This new process may allow for earlier distribution of animal drugs made with CMC changes.

  - **Permit comparability protocols to be submitted as protocols without substantial data in a JINAD file.** Submission of comparability protocols as protocols without substantial data in a JINAD file is voluntary. This new process can reduce the review time for most comparability protocols from 270 to 100 days. In FY 2018, CVM received no JINAD comparability protocols.

  - **Develop a New Bioequivalence Submission Process.** The question based review (QbR) process for blood level bioequivalence (BE) protocol submissions was completed; and, as implemented the process has facilitated the successful review of protocol BE submissions through FY 2018. The QbR process for BE data submissions was fully developed in collaboration with the Generic Animal Drug Alliance[3] prior to October 1, 2018, with an anticipated deployment date of December 1, 2018.

[3] The Generic Animal Drug Alliance is an independent, professional trade association serving those organizations with interests in generic animal drug products. More information can be found at https://www.gadaonline.org/.

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

Refuse to Accept. As stated in section 741(e) of the FD&C Act, an ANADA or a JINAD submission for a generic new animal drug that is submitted by a person subject to fees is considered 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 ANADA or supplemental ANADA (or a reactivation of them) that is 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 the extent that FDA cannot reasonably review it.

Refuse to Review Submissions. Within 60 days of submission, FDA will refuse to review a JINAD submission that is determined to be insufficient on its face or otherwise of unacceptable quality upon initial inspection using criteria and procedures similar to those found in 21 CFR 514.110. A decision to refuse to review a submission, or to refuse to file an application as described above, will result in the application or submission being excluded from the receipt cohort. FDA records the numbers and types of these exclusions and has included them 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 original ANADA, supplemental ANADA, or JINAD submission that either (1) approves an original or supplemental ANADA or notifies a sponsor that a JINAD submission is complete, or (2) sets forth in detail the specific deficiencies in such original or supplemental ANADA or JINAD submission and, where appropriate, the actions necessary to place such an original or supplemental ANADA or JINAD submission in condition for approval.

Stop Review. A sponsor may request that FDA stop the review of a particular JINAD 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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