GDUFA III Suitability Petitions

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Generic Drugs Forum 2024: Regulatory Considerations to Enhance Generic Drug Access – April 10-11, 2024

Key/Legend

- Objective
- Resources
- GDUFA III
- Best Practices
- Common Issues/Deficiencies
- Other Considerations

Learning Objectives

- Provide a background refresher on the Generic Drug User Fee Amendments (GDUFA III) Commitment Letter with regard to reviewing suitability petitions
- Describe the proper format and content of a suitability petition
- Review the requirements for submitting suitability petitions that are triggered by the Pediatric Research Equity Act (PREA)
- List the reasons for denial of a suitability petition
- Identify best practices and tips for submitting a quality suitability petition

What is a Suitability Petition?

- A request to submit an abbreviated new drug application (ANDA) that is different from the reference listed drug (RLD) in one or more of the following:
  - Strength
  - Route of administration
  - Dosage form
  - Change in one active ingredient in a fixed-combination drug product (i.e., a drug product with multiple active ingredients)

Suitability Petitions in GDUFA III

FDA 3

FY 2024-2027:

- FDA started conducting completeness assessments for suitability petitions
  - Timeframe for completeness assessment = 21 days after the date of petition submission
  - If an information request (IR) is issued as part of the completeness assessment and the petitioner submits a response, FDA will finish the completeness assessment within 21 days after the date of receipt of the IR response.

Suitability Petitions in GDUFA III

FDA 3

Prioritization of Suitability Petitions:

- Could mitigate or resolve a drug shortage and prevent future shortages
- Address a public health emergency declared by the Secretary of HHS under section 319 of the PHS Act, or anticipated under the same criteria as apply to such a declaration
- Is for a new strength of a parenteral product that could aid in eliminating waste or mitigating the number of vials needed per dose by addressing differences in patient weight, body size, or age
- Subject to special review programs under the President's Emergency Plan for AIDS Relief (PEPFAR)

Suitability Petitions in GDUFA III

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Beginning in FY 2024, FDA will review and respond to suitability petitions that have been assigned a goal date pursuant to the following goals:

- In FY 2024, 50 percent of submissions within 6 months after completeness assessment, up to a maximum of 50 suitability petitions completed
- In FY 2025, 70 percent of submissions within 6 months after completeness assessment, up to a maximum of 70 suitability petitions completed
- In FY 2026, 80 percent of submissions within 6 months after completeness assessment, up to a maximum of 80 suitability petitions completed
- In FY 2027, 90 percent of submissions within 6 months after completeness assessment, up to a maximum of 90 suitability petitions completed

Submitting a Suitability Petition

- Suitability petitions are a type of citizen petition. Petitioners must follow the format as outlined in 21 CFR 10.30
- Suitability petitions are submitted to Dockets Management Staff (DMS).
  - Submissions, supplemental material, and amendments (i.e., responses to information requests) **related to a specific docket ID** should be uploaded using **FDA's Electronic Method for Specific Electronic Submissions** via docket ID FDA-2013-S-0610.
  - All supplemental or supported related material (SRMs) and amendments **must reference** the previously **assigned docket ID** (ex. Subject: Amendment to FDA-2024-P-XXXX) for DMS to process it in compliance with the Code of Federal Regulations (CFR).
  - For additional information, refer to **Instructions on "how to upload"**: Electronic Method for Specific Electronic Submissions to FDA's Division of Dockets Management Staff.

Submitting a Suitability Petition

Format and Content

- Five Sections of a Citizen Petition (21 CFR 10.30):
  - A. Action Requested
  - B. Statement of Grounds
  - C. Environmental Impact
  - D. Economic Impact
  - E. Certification
- Additional content specifically for Suitability Petitions (21 CFR 314.93(d)):
  - Identify a reference listed drug (RLD)
  - Copy of the currently approved RLD labeling
  - Copy of the proposed labeling
- Pediatric Research Equity Act (PREA) Requirements Waiver Request[1]

[1] PREA Waiver Request warranted for petitions proposing any type of change that triggers PREA.

Suitability Petitions and PREA

- Suitability petitions proposing a change in **dosage form, route of administration, or** for **a change in active ingredient in a fixed-combination drug** trigger the requirement for pediatric assessments or molecularly targeted pediatric cancer investigations under PREA.
- These requirements may be waived! But you must submit a waiver request!
- PREA authorizes FDA to waive the requirement to submit a pediatric assessment, based on established criteria, for some or all pediatric age groups.
  - Thus, for any suitability petition requesting a change in dosage form, route of administration, or new ingredient in fixed-combination products, an applicant should provide a request to waive the requirements triggered by PREA

- For information on PREA requirements and requesting a waiver, refer to Draft Guidance for Industry: Pediatric Drug Development: Regulatory Considerations — Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act May 2023

Requesting a PREA Waiver

To request a waiver, applicants should provide the following:

- The drug name, applicant name, and indication.
- The age group(s) included in the waiver request.
- The statutory reason(s) for requesting a waiver, including reference to the applicable statutory authority.[1]
- Evidence that the request meets the statutory reason(s) for waiver. All relevant scientific/clinical justifications for the waiver request should be included.

[1] See section 505B(a)(5) of the FD&C Act (21 U.S.C. 355c(a)(5))

Challenge Question #1

Which type of change does not trigger the requirements under PREA?

A. Changes in dosage form

B. Changes in route of administration

C. Changes in strength

D. Changes in one active ingredient in a fixed-combination drug product

Recommended Supplemental Information

The following supplemental information may facilitate the review of your suitability petition if available and included in your submission:

- Annotated proposed labeling identifying all differences in prescribing information from the RLD
- If there is a proposed change in strength, provide a description of the proposed product (e.g., tablet color, shape, size, identifying imprint code(s), etc.)
- Proposed carton labeling and container labels, if available

Recommended Supplemental Information (continued)

For petitions requesting a different active ingredient in a fixed-combination drug product:

- Provide a description of any differences in clinical safety or efficacy that may be seen with the newly proposed active ingredient compared to the active ingredient in the RLD (e.g., if the new active ingredient has a narrow therapeutic index or may give rise to different adverse events).
- Verify whether dosing (or presentation of strength) of the overall product will change as a result of the substitution of one of the active ingredients.

Recommended Supplemental Information (continued)

For petitions requesting a different route of administration or dosage form:

- Submit information on whether a different route of administration or dosage form gives rise to a potentially adverse event profile (e.g., going from a tablet to injection may lead to injection site reactions that do not otherwise exist for the tablet formulation). Include details of what the clinical outcome/impact is if a user were to administer the proposed product through the RLD's intended route of administration.
- Indicate any changes in administration technique or instructions for use (e.g., changes from a tablet to an orally disintegrating tablet).

Reasons for Denial of a Suitability Petition

FDA will approve a suitability petition unless, among other reasons, one of the following is applicable 21 CFR 314.93(e)(1)(i)-(vi):

- Investigations must be conducted to show the safety and effectiveness of the drug product or any of its active ingredients, its route of administration, dosage form, or strength which differs from the reference listed drug
- For a petition that seeks to change an active ingredient, the drug product that is the subject of the petition is not a fixed-combination drug
- The suitability petition requests a change to a drug product that triggers the need for pediatric studies under the Pediatric Research Equity Act to assess the safety and efficacy of the drug product in a relevant pediatric subpopulation that would not be waived by FDA; such studies render the proposed product ineligible for approval in an ANDA.

Reasons for Denial of a Suitability Petition (continued)

- Any of the proposed changes from the listed drug would jeopardize the safe or effective use of the product so as to necessitate significant labeling changes to address the newly introduced safety or effectiveness problem
- FDA has determined that the reference listed drug has been withdrawn from sale for safety or effectiveness reasons under § 314.161, or the reference listed drug has been voluntarily withdrawn from sale and the agency has not determined whether the withdrawal is for safety or effectiveness reasons
- A drug product is approved in an NDA for the change described in the petition

Reasons for Denial of a Suitability Petition (continued)

For a fixed-combination drug product that is the subject of the petition and has an active ingredient different from the reference listed drug:

- The drug product may not be adequately evaluated for approval as safe and effective on the basis of the information required to be submitted under § 314.94
- The petition does not contain information to show that the different active ingredient of the drug product is of the same pharmacological or therapeutic class as the ingredient of the reference listed drug that is to be changed and that the drug product can be expected to have the same therapeutic effect as the reference listed drug when administered to patients for each condition of use in the listed drug's labeling for which the applicant seeks approval
- The different active ingredient is not an active ingredient in a listed drug or a drug that meets the requirements of section 201(p) of the Federal Food, Drug, and Cosmetic Act
- The remaining active ingredients are not identical to those of the listed fixed-combination drug

Best Practices for Submitting a Suitability Petition

- Ensure amendments are submitted properly!
  - Refer to **Instructions on "how to upload"**: Electronic Method for Specific Electronic Submissions to FDA's Division of Dockets Management Staff.
  - All amendments (e.g., responses to information requests) should be uploaded using the shell docket ID FDA-2013-S-0610.
  - Amendments should include a subject line or title identifying the document as an amendment referencing the original docket number (e.g., "Subject: Amendment to FDA-2024-P-XXXX)

- Does your petition propose a change in dosage form, route of administration, or a change in an active ingredient in a fixed-combination drug?
  - Don't forget your PREA waiver request!
  - Refer to the guidance provided in the Resources section

Best Practices for Submitting a Suitability Petition

- Check the Orange Book!
  - Has an NDA already been approved for the drug product proposed in your petition?
  - Has the RLD cited as the basis of your submission been discontinued?
    - Ensure a determination has been made that the product was not discontinued or withdrawn for safety or effectiveness reasons.
    - If a determination has not been made, submit a citizen petition under 21 CFR 10.25(a) and 10.30 seeking a determination whether the listed drug has been withdrawn from sale for safety or effectiveness reasons. This determination must be made prior to approving a suitability petition relying on a discontinued NDA.
- Ensure your petition submission includes a copy of the proposed labeling and a copy of the approved labeling for the listed drug.

Best Practices for Submitting a Suitability Petition

- Do you have a pending suitability petition submitted prior to FY 2024 and want a GDUFA goal date?
  - If a petitioner wants to receive a goal date on a suitability petition submitted prior to FY 2024, the petitioner may withdraw and submit a new suitability petition in FY 2024-2027.

- Wait for approval of your suitability petition!
  - FDA will refuse to receive an ANDA citing a *pending* suitability petition (or a suitability petition that was denied) as that ANDA would lack a legal basis of submission. (see 21 CFR 314.94(a)(3)(i)/(iii))

Challenge Question #2

Which of the following statements is NOT true?

A. A copy of the currently approved RLD labeling and proposed labeling should be included with a suitability petition.

B. A suitability petition allows a person to submit a request to change a dosing regimen different from that of a listed drug.

C. A suitability petition will be denied if a drug product is approved in an NDA for the change described in the petition.

D. A suitability petition will be denied if the reference listed drug that is the basis of the petition has been voluntarily withdrawn from sale and the agency has not determined whether the withdrawal is for safety or effectiveness reasons.

Resources

- Regulations.gov
- Manual of Policies and Procedures – Center for Drug Evaluation and Research – Office of Generic Drugs – Suitability Petitions 5240.5 Rev. 3 Suitability Petitions
- Orange Book: Approved Drug Products with Therapeutic Equivalence Evaluations
- Draft Guidance for Industry: Pediatric Drug Development: Regulatory Considerations — Complying With the Pediatric Research Equity Act and Qualifying for Pediatric Exclusivity Under the Best Pharmaceuticals for Children Act May 2023
- Drugs @FDA
- Electronic Method for Specific Electronic Submissions to FDA's Division of Dockets Management Staff

Summary

- Follow the format and content for suitability petitions as outlined in 21 CFR 10.30 and 21 CFR 314.93
- Provide a waiver request for suitability petitions proposing a change to a drug product that trigger the need for pediatric studies under PREA
- Remember the instructions for submitting amendments to Dockets Management Staff
- Once your suitability petition is approved, you may submit your ANDA!

Questions?

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