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# Guidance for Industry Expedited Programs for Serious Conditions—Drugs and Biologics

## ***DRAFT GUIDANCE***

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For questions regarding this draft document contact (CDER) Office of Medical Policy at 301-796-2500, or (CBER) Office of Communication, Outreach and Development at 800-835-4709 or 301-827-1800.

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

**June 2013  
Procedural**

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# Guidance for Industry Expedited Programs for Serious Conditions—Drugs and Biologics

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1 **Guidance for Industry<sup>1</sup>**  
2 **Expedited Programs for Serious Conditions—Drugs and Biologics**  
3

4  
5 This draft guidance, when finalized, will represent the Food and Drug Administration’s (FDA’s) current  
6 thinking on this topic. It does not create or confer any rights for or on any person and does not operate to  
7 bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of  
8 the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA  
9 staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call  
10 the appropriate number listed on the title page of this guidance.  
11

12  
13 **I. INTRODUCTION**  
14

15 The following four FDA programs are intended to facilitate and expedite development and  
16 review of new drugs<sup>2</sup> to address unmet medical need in the treatment of a serious or life-  
17 threatening<sup>3</sup> condition: fast track designation, breakthrough therapy designation, accelerated  
18 approval, and priority review designation (see [Section IV](#) for an overview of the programs). This  
19 guidance for industry provides a single resource for information on FDA’s policies and  
20 procedures for these four programs as well as threshold criteria generally applicable to  
21 concluding that a drug is a candidate for these expedited development and review programs.  
22

23 The provisions of this guidance, when finalized, will replace the current guidance for industry  
24 entitled *Fast Track Drug Development Programs—Designation, Development, and Application*  
25 *Review* (issued January 2006). The provisions of this guidance relating to available therapy,  
26 when finalized, will replace the current guidance for industry entitled *Available Therapy* (issued  
27 July 2004).<sup>4</sup>  
28

29 FDA’s guidance documents, including this guidance, do not establish legally enforceable  
30 responsibilities. Instead, guidances describe the Agency’s current thinking on a topic and should  
31 be viewed only as recommendations, unless specific regulatory or statutory requirements are  
32 cited. The use of the word *should* in Agency guidances means that something is suggested or  
33 recommended, but not required.  
34

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<sup>1</sup> This guidance has been prepared by the Center for Drug Evaluation and Research (CDER) in cooperation with the Center for Biologics Evaluation and Research (CBER) at the Food and Drug Administration.

<sup>2</sup> For the purposes of this guidance, all references to “drugs” or “drug products” include both human drugs and biological drug products regulated by CDER and CBER unless otherwise specified.

<sup>3</sup> Section III.A.1 explains that all references to serious conditions include life-threatening conditions.

<sup>4</sup> We update and issue guidances periodically. We recommend you check the FDA Web site to ensure that you have the most up-to-date version of a guidance. The guidances referenced in this document are available on the Drugs guidance page at <http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm> and the Biologics guidance page at <http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm>.

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### 35 **II. BACKGROUND**

36  
37 The programs described in this guidance are intended to help ensure that therapies for serious  
38 conditions are approved and available to patients as soon as it can be concluded that the  
39 therapies' benefits justify their risks. The Agency first formally articulated its thinking on  
40 expediting the availability of promising new therapies in regulations codified at 21 CFR part  
41 312, subpart E.<sup>5</sup> The subpart E regulations are intended to speed the availability of new therapies  
42 to patients with serious conditions, especially when there are no satisfactory alternative therapies,  
43 while preserving appropriate standards for safety and effectiveness. The regulations call for  
44 earlier attention to drugs that have promise in treating such conditions, including early  
45 consultation with FDA for sponsors of such products, and efficient trial design, potentially  
46 relying on well-controlled Phase 2 studies for evidence of effectiveness. The subpart E  
47 regulations specifically recognize that patients and physicians are generally willing to accept  
48 greater risk (and uncertainty about benefit) for a treatment for a serious condition where there is  
49 an unmet medical need.

### 50 **III. CONCEPTS FOR EXPEDITED PROGRAMS**

51  
52  
53 The programs that are the subject of this guidance, fast track designation, breakthrough therapy  
54 designation, accelerated approval, and priority review, are summarized in [Section IV](#) and  
55 described in more detail below. As referenced above, the criteria for all four of these expedited  
56 programs draw on the same principle of addressing unmet medical need in the treatment of a  
57 serious condition, which is discussed below.

#### 58 **A. Serious Condition**

##### 59 *1. Whether a Condition Is Serious*

60  
61  
62  
63 FDA generally intends to interpret the term “serious” consistent with how it has done so in the  
64 past for the purposes of accelerated approval,<sup>6</sup> fast track designation,<sup>7</sup> and expanded access to  
65 investigational drugs for treatment use.<sup>8</sup> A serious disease or condition is defined in the  
66 expanded access regulations as:

67  
68 “a disease or condition associated with morbidity that has substantial impact on day-to-  
69 day functioning. Short-lived and self-limiting morbidity will usually not be sufficient,  
70 but the morbidity need not be irreversible if it is persistent or recurrent. Whether a  
71 disease or condition is serious is a matter of clinical judgment, based on its impact on

---

<sup>5</sup> 21 CFR part 312, subpart E; Food and Drug Administration, Interim Rule, Investigational New Drug, Antibiotic, and Biological Drug Product Regulations; Procedures for Drugs Intended to Treat Life-Threatening and Severely Debilitating Illnesses (53 FR 41516, October 21, 1988).

<sup>6</sup> Food and Drug Administration, Final Rule, New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval (57 FR 58942, December 11, 1992).

<sup>7</sup> Guidance for Industry: FastTrack Drug Development Program — Designation, Development, and Application Review (which will be superseded by this final guidance and withdrawn).

<sup>8</sup> 21 CFR part 312, subpart I.

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72 such factors as survival, day-to-day functioning, or the likelihood that the disease, if left  
73 untreated, will progress from a less severe condition to a more serious one.”<sup>9</sup>  
74

75 This definition is derived from and consistent with the descriptions of the term in the preamble to  
76 the accelerated approval proposed rule and the fast track guidance.  
77

78 Note: For the purposes of this guidance, FDA considers the term *condition* to include a  
79 disease or illness. All conditions meeting the definition of life-threatening as set forth at  
80 21 CFR 312.81(a) would also be serious conditions.  
81

### 82 2. *Whether the Drug Is Intended to Treat a Serious Condition* 83

84 As referenced in [Section IV](#), as a general matter, the statutory and regulatory eligibility criteria  
85 for expedited programs require that a drug be intended to treat a serious condition. To satisfy  
86 this criterion, a drug must be intended to have an effect on a serious aspect of a condition, such  
87 as a direct effect on a serious manifestation or symptom of a condition, or other intended effects,  
88 including:  
89

- 90 • A diagnostic product intended to improve diagnosis or detection of a serious condition in  
91 a way that would lead to improved outcomes  
92
- 93 • A product intended to improve or prevent a serious treatment-related side effect (e.g.,  
94 serious infections in patients receiving immunosuppressive therapy)  
95
- 96 • A product intended to avoid a serious adverse effect associated with available therapy for  
97 a serious condition (e.g., less cardiotoxicity than available cancer therapy)  
98

### 99 **B. Available Therapy** 100

101 For purposes of this guidance, FDA generally considers *available therapy* (and the terms *existing*  
102 *treatment* and *existing therapy*) as a therapy that:  
103

- 104 • Is approved or licensed in the United States for the same indication being considered for  
105 the new drug and  
106
- 107 • Is relevant to current U.S. standard of care (SOC) for the indication  
108

109 *Approval or Licensure:* Only in rare cases will a treatment that is not approved for the indicated  
110 use or is not FDA-regulated (e.g., surgery) be considered available therapy. In those cases, FDA  
111 may consider an unapproved or unlicensed therapy to constitute “available therapy” if the safety  
112 and effectiveness of the use is supported by compelling evidence, including evidence in the  
113 published literature (e.g., certain established oncologic treatments).

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<sup>9</sup> 21 CFR 312.300(b)(1).

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114 *U.S. Standards of Care:* There may be a substantial number of approved therapies with varying  
115 relevance to how a serious disease is currently treated in the United States, including therapies  
116 that are no longer used or are used rarely. FDA’s available therapy determination generally  
117 focuses only on treatment options that reflect the current SOC for the specific indication  
118 (including the disease stage) for which a product is being developed. In evaluating the current  
119 SOC, FDA considers recommendations by authoritative scientific bodies (e.g., National  
120 Comprehensive Cancer Network, American Academy of Neurology) based on clinical evidence  
121 and other reliable information that reflects current clinical practice. In the absence of a well-  
122 established and documented SOC, FDA may consult with special government employees or  
123 other experts for advice in assessing whether an approved therapy is relevant to the current SOC.  
124 When a drug development program targets a subset of a broader disease population (e.g., a  
125 subset identified by a genetic or proteomic marker), the SOC for the broader population, if there  
126 is one, generally is considered available therapy for the subset.

127 Over the course of new drug development, it is foreseeable that the SOC for a given condition  
128 may evolve (e.g., because of approval of a new therapy or new information about available  
129 therapies). FDA will determine what constitutes available therapy at the time of the relevant  
130 regulatory decision for each expedited program the sponsor intends to use (e.g., generally early  
131 in development for fast track and breakthrough therapy designations, at time of biologics license  
132 application (BLA) or new drug application (NDA) submissions for priority review designation,  
133 during BLA or NDA review for accelerated approval).

134 A drug granted accelerated approval based on a surrogate or clinical endpoint and for which  
135 clinical benefit has not been verified is not considered available therapy.

136 A drug approved under accelerated approval with restricted distribution and a drug approved  
137 with a risk evaluation and mitigation strategy (REMS) that includes elements to assure safe use  
138 (ETASU) under section 505-1 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) would  
139 be considered available therapy only if the study population for the new drug would be eligible  
140 to receive the approved drug under the restricted distribution program or ETASU REMS.

141

### **C. Unmet Medical Need**

142

143  
144 An unmet medical need is a condition whose treatment or diagnosis is not addressed  
145 adequately by available therapy. An unmet medical need includes an immediate need  
146 for a defined population (i.e., to treat a serious condition with no or limited treatment) or  
147 a longer-term need for society (e.g., to address the development of resistance to  
148 antibacterial drugs).

149

#### *I. Where There Is No Available Therapy*

150

151  
152 If no therapy exists for a serious condition, there is clearly an unmet medical need.

153

154

155



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### 2. *Where There Is Available Therapy*

When available therapy exists for a condition, a new treatment generally would be considered to address an unmet medical need if the treatment:

- Has an effect on a serious outcome of the condition that is not known to be influenced by available therapy (e.g., progressive disability when the available therapy has shown an effect on symptoms but has not shown an effect on progressive disability)
- Has an improved effect on a serious outcome(s) of the condition compared to available therapy (e.g., superiority of the new drug used alone or in combination with available therapy in an active- or historically-controlled trial assessing an endpoint reflecting mortality or serious morbidity)
- Has a benefit for patients who are unable to tolerate available therapy or whose disease has failed to respond to available therapy, or the treatment can be used effectively with other critical agents that cannot be combined with available therapy
- Provides efficacy similar to those of available therapy, while (1) avoiding serious toxicity that occurs with available therapy, (2) avoiding less serious toxicity that is common and causes discontinuation of treatment of a serious condition, or (3) reducing the potential for harmful drug interactions
- Provides similar safety and efficacy as available therapy but with another documented benefit, such as improved compliance, that is expected to lead to an improvement in serious outcomes
- Addresses an emerging or anticipated public health need, such as a drug shortage

In some disease settings, a drug that is not shown to provide a direct efficacy or safety advantage over available therapy may nonetheless provide an advantage that would be of sufficient public health benefit to qualify as meeting an unmet medical need. For example, in a condition for which there are approved therapies that have a modest response rate or significant heterogeneity in response, a drug with a novel mechanism of action (but comparable safety and effectiveness) could have the potential to provide an advantage over available therapy. In such a case, the novel mechanism of action should have a well-understood relationship to the disease pathophysiology. In addition, there should be a reasonable basis for concluding that a significant number of patients may respond differently to the new drug compared to available therapy. For example, mechanistic diversity, even without a documented efficacy or safety advantage, could be advantageous in disease settings in which drugs become less effective or ineffective over time. For example, infectious disease drugs or targeted cancer therapies with novel mechanisms of action, although appearing to have comparable efficacy across the disease population, could benefit patients who no longer respond to available therapy. Accordingly, FDA intends to consider a range of potential advantages over available therapy beyond those shown in head-to-head comparisons.

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201           3.       *Where the Only Available Therapy Was Approved Under the Accelerated*  
202                    *Approval Program Based on a Surrogate or Clinical Endpoint and Clinical*  
203                    *Benefit Has Not Yet Been Verified*  
204

205       As discussed in [Section VII](#), FDA recognizes, as a general matter, that it is preferable to have  
206       more than one treatment approved under the accelerated approval provisions because of the  
207       possibility that clinical benefit may not be verified in post-approval confirmatory trials. FDA  
208       may therefore consider products as addressing unmet medical need notwithstanding the  
209       availability of therapies with accelerated approval.

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**210 IV. OVERVIEW OF EXPEDITED PROGRAMS**

211 The table provides an overview of the four expedited programs. Additional details on the specific programs  
 212 are found in the sections that follow.

213

**Comparison of FDA’s Expedited Programs for Serious Conditions**

	<b>Fast Track</b>	<b>Breakthrough Therapy</b>	<b>Accelerated Approval</b>	<b>Priority Review</b>
Nature of program	Designation	Designation	Approval Pathway	Designation
Reference	<ul style="list-style-type: none"> <li>Section 506(b) of the FD&amp;C Act, as added by section 112 of the Food and Drug Administration Modernization Act of 1997 (FDAMA), and amended by section 901 of the Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA)</li> </ul>	<ul style="list-style-type: none"> <li>Section 506(a) of the FD&amp;C Act, as added by section 902 of FDASIA</li> </ul>	<ul style="list-style-type: none"> <li>21 CFR part 314, subpart H</li> <li>21 CFR part 601, subpart E</li> <li>Section 506(c) of the FD&amp;C Act, as amended by section 901 of FDASIA</li> </ul>	<ul style="list-style-type: none"> <li>Prescription Drug User Fee Act of 1992</li> </ul>
Qualifying criteria	<ul style="list-style-type: none"> <li>A drug that is intended to treat a <a href="#">serious condition</a> AND nonclinical or clinical data <a href="#">demonstrate the potential to address unmet medical need</a><sup>a</sup> OR</li> <li>A drug that has been designated as a qualified infectious disease product<sup>b</sup></li> </ul>	<ul style="list-style-type: none"> <li>A drug that is intended to treat a <a href="#">serious condition</a> AND <a href="#">preliminary clinical evidence</a> indicates that the drug <a href="#">may demonstrate substantial improvement on a clinically significant endpoint(s)</a> over <a href="#">available therapies</a><sup>a</sup></li> </ul>	<ul style="list-style-type: none"> <li>A drug that treats a <a href="#">serious condition</a> AND generally provides <a href="#">meaningful advantage over available therapies</a> AND demonstrates an effect on a <a href="#">surrogate endpoint</a> that is <a href="#">reasonably likely to predict clinical benefit</a> or on a <a href="#">clinical endpoint that can be measured earlier than an effect on irreversible morbidity or mortality (IMM)</a> that is reasonably likely to predict an effect on IMM or other clinical benefit (i.e., an intermediate clinical endpoint)</li> </ul>	<ul style="list-style-type: none"> <li>An application (original or efficacy supplement) for a drug that treats a <a href="#">serious condition</a> AND if approved, would provide a <a href="#">significant improvement in safety or effectiveness</a> OR</li> <li>Any supplement that proposes a labeling change pursuant to a report on a pediatric study under 505A<sup>c</sup> OR</li> <li>An application for a drug that has been designated as a qualified infectious disease product<sup>d</sup> OR</li> <li>Any application or supplement for a drug submitted with a priority review voucher<sup>e</sup></li> </ul>

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### Comparison of FDA’s Expedited Programs for Serious Conditions

	<b>Fast Track</b>	<b>Breakthrough Therapy</b>	<b>Accelerated Approval</b>	<b>Priority Review</b>
Nature of program	Designation	Designation	Approval Pathway	Designation
When to submit	<ul style="list-style-type: none"> <li>• <a href="#">With IND or after</a></li> <li>• <a href="#">Ideally, no later than the pre-BLA or pre-NDA meeting</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">With IND or after</a></li> <li>• <a href="#">Ideally, no later than the end-of-Phase 2 meeting</a></li> </ul>	<ul style="list-style-type: none"> <li>• The sponsor should ordinarily discuss the possibility of accelerated approval with the review division during development, supporting, for example, the use of the planned endpoint as a basis for approval and discussing the confirmatory trials.</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">With original BLA, NDA, or efficacy supplement</a></li> </ul>
Timelines for FDA response	<ul style="list-style-type: none"> <li>• <a href="#">Within 60 calendar days of receipt of request</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Within 60 calendar days of receipt of request</a></li> </ul>	<ul style="list-style-type: none"> <li>• Not specified</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Within 60 calendar days of receipt of original BLA, NDA, or efficacy supplement</a></li> </ul>
Features	<ul style="list-style-type: none"> <li>• <a href="#">Actions to expedite development and review</a></li> <li>• <a href="#">Rolling review</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">All fast track designation features</a></li> <li>• <a href="#">Intensive guidance on efficient drug development during IND, beginning as early as Phase 1</a></li> <li>• <a href="#">Organizational commitment involving senior managers</a></li> </ul>	<ul style="list-style-type: none"> <li>• Approval based on an effect on a surrogate or intermediate clinical endpoint that is reasonably likely to predict a drug’s clinical benefit</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Shorter clock for review of marketing application (6 months compared to the 10-month standard review)</a></li> </ul>
Additional considerations	<ul style="list-style-type: none"> <li>• <a href="#">Designation may be withdrawn if it no longer meets fast track qualifying criteria</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Designation may be withdrawn if it no longer meets breakthrough therapy qualifying criteria</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Submission of copies of promotional materials for review</a></li> <li>• <a href="#">Conduct any required postapproval trials to verify and describe the anticipated clinical benefit or effect on IMM</a></li> <li>• <a href="#">Subject to expedited withdrawal</a></li> </ul>	<ul style="list-style-type: none"> <li>• Designation will be assigned at the time of original BLA, NDA or efficacy supplement filing</li> </ul>

<sup>a</sup> Designation applies to a combination of a drug (either alone or in combination with other drugs) and the specific use for which it is being studied. Where appropriate, designation may be granted to development of a new use of an FDA-approved drug.

<sup>b</sup> Title VIII of FDASIA entitled “Generating Antibiotic Incentives Now (GAIN)” provides incentives for the development of antibacterial and antifungal drugs for human use intended to treat serious and life threatening infections. Under GAIN, a drug may be designated as a *qualified infectious disease product (QIDP)* if it meets the criteria outlined in the statute. A drug that receives QIDP designation is eligible under the statute for fast track designation and priority review. However, QIDP designation is beyond the scope of this guidance.

<sup>c</sup> Any supplement to an application under section 505 of the FD&C Act that proposes a labeling change pursuant to a report on a pediatric study under this section shall be considered to be a priority review supplement per section 505A of the FD&C Act as amended by section 5(b) of the Best Pharmaceuticals for Children Act.

<sup>d</sup> See footnote b above.

<sup>e</sup> Any application or supplement that is submitted with a priority review voucher will be assigned a priority review. Priority review vouchers will be granted to applicants of applications for drugs for the treatment or prevention of certain tropical diseases, as defined in section 524(a)(3) and (4) of the FD&C Act and for treatment of rare pediatric diseases as defined in section 529(a)(3) of the FD&C Act.

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### 214 **V. FAST TRACK DESIGNATION**

215  
216 Section 506(b) of the FD&C Act provides for the designation of a drug as a fast track product “if  
217 it is intended, whether alone or in combination with one or more other drugs, for the treatment of  
218 a *serious or life-threatening disease or condition*, and it *demonstrates the potential to address*  
219 *unmet medical needs* for such a disease or condition.” This section describes the qualifying  
220 criteria (italicized terms) and the features (e.g., benefits) of fast track designation. [Appendix 1](#)  
221 describes the fast track designation process.

#### 222 **A. Qualifying Criteria for Fast Track Designation**

##### 223 *1. Serious Condition*

224  
225  
226  
227 See [Section III.A](#).

##### 228 *2. Demonstrating the Potential to Address Unmet Medical Need*

229  
230  
231 The type of information needed to demonstrate the potential of a drug to address an unmet  
232 medical need will depend on the stage of drug development in which fast track designation is  
233 requested. Early in development, evidence of activity in a nonclinical model, a mechanistic  
234 rationale, or pharmacologic data could be used to demonstrate such potential. Later in  
235 development, available clinical data should demonstrate the potential to address an unmet  
236 medical need. See [Section III.C](#).

#### 237 **B. Features of Fast Track Designation**

##### 238 *1. Actions to Expedite Development and Review*

239  
240  
241  
242 There are opportunities for frequent interactions with the review team for a fast track product.  
243 These include FDA-sponsor meetings, including pre-IND, end of Phase 1, and end of Phase 2  
244 meetings to discuss study design, extent of safety data required to support approval, dose-  
245 response concerns, use of biomarkers, and other meetings as appropriate (i.e., to discuss  
246 accelerated approval, the structure and content of an NDA, and other critical issues).

247  
248 In addition, such a product could be eligible for priority review if supported by clinical data at  
249 the time of BLA, NDA, or efficacy supplement submission.

##### 250 *2. Submission of Portions of an Application (Rolling Review)*

251  
252  
253  
254 If FDA determines, after preliminary evaluation of clinical data submitted by the sponsor, that  
255 a fast track product may be effective, the Agency shall evaluate for filing, and may consider

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256 reviewing portions of a marketing application before the sponsor submits the complete  
257 application (see [Appendix 2](#)).<sup>10</sup>

258

### 259 VI. BREAKTHROUGH THERAPY DESIGNATION

260

261 Section 506(a) of the FD&C Act provides for designation of a drug as a breakthrough therapy “if  
262 the drug is intended, alone or in combination with 1 or more other drugs, to treat a *serious or*  
263 *life-threatening disease or condition* and *preliminary clinical evidence* indicates that the drug  
264 may demonstrate substantial improvement over *existing therapies* on 1 or more *clinically*  
265 *significant endpoints*, such as substantial treatment effects observed early in clinical  
266 development.” This section describes the qualifying criteria (italicized terms) and the features  
267 (e.g., benefits) of breakthrough therapy designation. [Appendix 1](#) describes the breakthrough  
268 therapy designation process.

269

#### 270 A. Qualifying Criteria for Breakthrough Therapy Designation

271

##### 272 1. *Serious Condition*

273

274 See [Section III.A](#).

275

##### 276 2. *Existing (or Available) Therapies*

277

278 See [Section III.B](#).

279

##### 280 3. *Preliminary Clinical Evidence*

281

282 Unlike the information that could support fast track designation, which could include theoretical  
283 rationale, mechanistic rationale (based on nonclinical data), or evidence of nonclinical activity,  
284 breakthrough therapy designation requires preliminary clinical evidence of a treatment effect that  
285 would represent substantial improvement over available therapies for the treatment of a serious  
286 condition. Assessment of the treatment effect for the purposes of breakthrough therapy  
287 designation will be based on preliminary clinical evidence, which could include early clinical  
288 evidence of both clinical benefit and an effect on a mechanistic biomarker (generally derived  
289 from Phase 1 and 2 trials). Nonclinical information could support the clinical evidence of drug  
290 activity. In all cases, preliminary clinical evidence demonstrating that the drug may represent a  
291 substantial improvement over available therapy should involve a sufficient number of patients to  
292 be considered credible. However, FDA recognizes that the data cannot be expected to be  
293 definitive at the time of designation.

294

295 Ideally, preliminary clinical evidence would be derived from a study that compares the  
296 investigational drug to an available therapy (or placebo, if there is no available therapy) in  
297 clinical testing and shows superiority, or from a study that compares the new treatment plus SOC  
298 to the SOC alone. FDA encourages sponsors to obtain some preliminary comparative data of

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<sup>10</sup> Section 506(d)(1) of the FD&C Act.

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299 this kind early in development. Other types of clinical data that could also be persuasive include  
300 studies comparing the new treatment with historical experience (generally, FDA expects such  
301 data would be persuasive only if there is a large difference between the new treatment and  
302 historical experience).<sup>11</sup>

303  
304 4. *May Demonstrate Substantial Improvement on Clinically Significant Endpoint(s)*

305  
306 To support a breakthrough therapy designation, the preliminary clinical evidence must show that  
307 the drug may demonstrate “substantial improvement” over available therapy on one or more  
308 “clinically significant” endpoints.

309  
310 *Substantial Improvement:* To determine whether the improvement over available therapy is  
311 substantial is a matter of judgment and depends on both the magnitude of the treatment effect,  
312 which could include duration of the effect, and the importance of the observed clinical outcome.  
313 In general, the preliminary clinical evidence should show a clear advantage over available  
314 therapy. Such improvement will be clear when there is no available therapy or when available  
315 therapy shows only a modest response and the new therapy shows an effect on an important  
316 outcome. Where there is an effective available therapy, showing substantial improvement is  
317 more challenging.

318  
319 Approaches to demonstrating preliminary clinical evidence of substantial improvement include:

- 320
- 321 • Direct comparison of a new drug to available therapy (or to no treatment if none exists)  
322 showing a much greater or more important response (e.g., complete response where the  
323 control treatment results in partial response). Such a trial could be conducted in  
324 treatment naïve patients or in those whose disease failed to respond to available therapies  
325 either as a comparison with the failed therapy (if ethically acceptable) or as a no-  
326 treatment controlled study.
  - 327
  - 328 • The new drug added to available therapy results in a much greater or more important  
329 response compared to available therapy in a controlled study or to a historical control.  
330 This trial also could be conducted in treatment naïve patients or in those whose disease  
331 failed to respond to available therapies.
  - 332
  - 333 • The new drug treats the underlying cause of the disease, in contrast to available therapies  
334 that treat only symptoms of the disease, and preliminary clinical evidence shows  
335 significant efficacy. In this case, the treatment effect is entirely new (i.e., has not been  
336 observed with available therapies). For example, a drug that targets a defective protein  
337 that is the underlying cause of a disease (whereas current therapies only treat the  
338 symptoms of the disease).
  - 339

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<sup>11</sup> Sponsors contemplating the use of historical controls should consult FDA’s guidance for industry *E10 Choice of Control Group and Related Issues in Clinical Trials* (May 2001, ICH) for more detailed discussions.

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- 340 • The new drug reverses disease progression, in contrast to available therapies that only  
341 provide symptomatic improvement.
- 342 • The new drug has an important safety advantage that relates to serious adverse events  
343 compared to available therapies and has similar efficacy.  
344

345 *Clinically Significant Endpoint:* For purposes of breakthrough therapy designation, FDA  
346 considers *clinically significant endpoint* generally to refer to an endpoint that measures an effect  
347 on irreversible morbidity or mortality (IMM) or on symptoms that represent serious  
348 consequences of the disease. It can also refer to findings that suggest an effect on IMM or  
349 serious symptoms, including:

- 350
- 351 • An effect on an established surrogate endpoint  
352
- 353 • An effect on a surrogate endpoint or intermediate clinical endpoint (see [Section VII.B.2](#))  
354 considered reasonably likely to predict a clinical benefit (i.e., the accelerated approval  
355 standard)  
356
- 357 • An effect on a pharmacodynamic biomarker(s) that does not meet criteria for an  
358 acceptable surrogate endpoint, but strongly suggests the potential for a clinically  
359 meaningful effect on the underlying disease  
360
- 361 • A significantly improved safety profile compared to available therapy (e.g., less dose-  
362 limiting toxicity for an oncology agent), with evidence of similar efficacy  
363

364 In a breakthrough therapy designation request, the sponsor should provide justification for why  
365 the endpoint, biomarker, or other findings should be considered clinically significant.  
366

### **B. Features of Breakthrough Therapy Designation**

#### *1. All Fast Track Designation Features*

370

371 Section 902 of FDASIA instructs FDA to take actions appropriate to expedite the development  
372 and review of a breakthrough therapy. Because a drug that qualifies for breakthrough therapy  
373 designation would also meet the standard for fast track designation, FDA has determined that it  
374 would be appropriate for the features of fast track designation to be available to a drug  
375 designated as a breakthrough therapy (see [Section V.B](#)).

#### *2. Intensive Guidance on an Efficient Drug Development Program, Beginning as Early as Phase 1*

376

377

378

379

380 As discussed previously, breakthrough therapy designation will usually mean that the effect of  
381 the drug will be large compared to available therapies. In such cases, the development program  
382 for the breakthrough therapy could be considerably shorter than for other drugs intended to treat  
383 the disease being studied. However, FDA notes that a compressed drug development program  
384 still must generate adequate data to demonstrate that the drug is safe and effective in order to



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385 meet the statutory standard for approval.<sup>12</sup> Omitting components of the drug development  
386 program that are necessary for such a determination can significantly delay, or even preclude,  
387 marketing approval.

388  
389 Sponsors can design an efficient clinical trial or trials in a number of ways. FDA will seek to  
390 ensure that the sponsor of a product designated as a breakthrough therapy receives timely advice  
391 and interactive communications in order to help the sponsor design and conduct a development  
392 program as efficiently as possible. During these interactions, the Agency may suggest, or a  
393 sponsor can propose, alternative clinical trial designs (e.g., adaptive designs, an enrichment  
394 strategy, use of historical controls) that may result in smaller trials or more efficient trials that  
395 require less time to complete. Such trial designs could also help minimize the number of patients  
396 exposed to a potentially less efficacious treatment (i.e., the control group treated with available  
397 therapy).

398  
399 FDA anticipates that the review team and the sponsor will meet throughout drug development to  
400 address these and other important issues at different phases of development. In addition, a  
401 sponsor should be prepared for a more rapid pace for other aspects of the drug development (e.g.,  
402 manufacturing (see [Section IX.A](#)), development of a necessary companion diagnostic).

### 403 404 3. *Organizational Commitment Involving Senior Managers*

405  
406 FDA intends to expedite the development and review of a breakthrough therapy by, where  
407 appropriate, intensively involving senior managers and experienced review staff in a proactive  
408 collaborative, cross-disciplinary review. Where appropriate, FDA also intends to assign a cross-  
409 disciplinary project lead for the review team to facilitate an efficient review of the development  
410 program. The cross-disciplinary project lead will serve as a scientific liaison between the  
411 members of the review team (e.g., clinical; pharmacology-toxicology; chemistry, manufacturing,  
412 and controls (CMC); compliance; biostatistics) for coordinated internal interactions and  
413 coordinated communications with the sponsor through the review division's Regulatory Health  
414 Project Manager.

415  
416 If a sponsor has not requested breakthrough therapy designation, FDA may suggest that the  
417 sponsor consider submitting a request if: (1) after reviewing submitted data and information  
418 (including preliminary clinical evidence), the Agency thinks the drug development program may  
419 meet the criteria for breakthrough therapy designation and (2) the remaining drug development  
420 program can benefit from the designation.

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423  
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425  
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<sup>12</sup> Section 505(d) of the FD&C Act; Section 351(a) of the Public Health Service Act.

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### 427 VII. ACCELERATED APPROVAL

428  
429 The accelerated approval provisions of FDASIA in section 506(c) of the FD&C Act provide that  
430 FDA may grant accelerated approval to:

431  
432 a product for a *serious or life-threatening condition* . . . upon a determination that the  
433 product has an effect on a *surrogate endpoint* that is *reasonably likely to predict clinical*  
434 *benefit*, or an effect on a *clinical endpoint that can be measured earlier than an effect on*  
435 *irreversible morbidity or mortality*, that is reasonably likely to predict an effect on  
436 irreversible morbidity or mortality or other clinical benefit, taking into account the  
437 severity, rarity, or prevalence of the condition and the *availability or lack of alternative*  
438 *treatments*.

439  
440 Accelerated approval is usually contingent on a sponsor’s agreement to conduct additional post-  
441 approval studies to verify and describe the drug’s clinical benefit (see [Sections VII.D.2](#) and  
442 [VII.D.3](#)).<sup>13</sup>

443  
444 This section describes the qualifying criteria, relevant terms (italicized terms), and the conditions  
445 of accelerated approval. The FDASIA provisions facilitate somewhat broader use of accelerated  
446 approval to expedite patient access to important treatments for serious conditions. FDA believes  
447 the new provisions provide additional flexibility concerning the implications of available therapy  
448 on eligibility for accelerated approval (see [Section VII.A.2](#)). They also provide clarification  
449 concerning the use of clinical endpoints (herein referred to as intermediate clinical endpoints) as  
450 a basis for accelerated approval (see [Section VII.B.2](#)). Finally, the new provisions make clear  
451 that FDA has the authority to consider pharmacologic or other evidence developed using  
452 biomarkers or other scientific methods or tools, in conjunction with other data, in determining  
453 whether an endpoint is reasonably likely to predict clinical benefit (see [Section VII.C.1](#)).<sup>14</sup>

454  
455 The accelerated approval pathway is most often useful in settings in which the disease course is  
456 long and an extended period of time is required to measure the intended clinical benefit of a  
457 drug, even if the effect on the surrogate or intermediate clinical endpoint occurs rapidly. For  
458 example, accelerated approval has been used extensively in drug development for a variety of  
459 cancers and human immunodeficiency virus (HIV) disease—diseases in which the goal of  
460 therapy is generally to improve survival or decrease morbidity and the duration of the typical  
461 disease course requires lengthy and sometimes large trials to demonstrate a clinical or survival  
462 benefit.

463  
464 Accelerated approval is generally less useful in more acute disease settings in which therapy is  
465 intended to provide a more near-term clinical benefit. In such settings, even if there are

---

<sup>13</sup> FDCA 506(c)(2)(A).

<sup>14</sup> FDCA 506(c)(1)(B). FDA regulations provide that the agency may consider “epidemiologic, therapeutic, pathophysiologic or other evidence” in determining whether an endpoint is reasonably likely to predict clinical benefit. FDASIA provides that FDA may consider “epidemiological, pathophysiological, therapeutic, pharmacologic, or other evidence developed using biomarkers, for example, or other scientific methods or tools.”

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466 potentially predictive surrogate endpoints or intermediate clinical endpoints, there may be little  
467 or no time advantage for studies evaluating a surrogate or intermediate endpoint compared to  
468 studies evaluating the intended clinical benefit.

469  
470 FDA encourages sponsors to communicate with the Agency early in development concerning the  
471 potential eligibility of the drug for accelerated approval, proposed surrogate or intermediate  
472 clinical endpoints, clinical trial designs, and study planning and conduct of confirmatory trials.

473

### **A. Qualifying Criteria for Accelerated Approval**

474

475  
476 At the time a product is given accelerated approval, there generally will be uncertainty about  
477 whether a surrogate endpoint or intermediate clinical endpoint predicts the drug's ultimate  
478 anticipated clinical benefit. The principal risk of this approach is the possibility that patients will  
479 be exposed to a drug that will ultimately not be shown to provide an actual clinical benefit. In  
480 addition, there may be fewer, smaller, or shorter clinical trials than is typical for a drug with  
481 traditional approval, which for example could mean there is less information about the  
482 occurrence of rare adverse events. For these reasons, accelerated approval is limited to a drug  
483 intended to treat a serious condition which appears to provide some meaningful advantage over  
484 available therapy.

485

#### *1. Serious Condition*

486

487 See [Section III.A.](#)

488

#### *2. Meaningful Advantage Over Available Therapy*

489

490 The accelerated approval regulations state that accelerated approval is available only for drugs  
491 that provide a meaningful therapeutic benefit over existing treatments.<sup>15</sup> The accelerated  
492 approval provision of section 901 of FDASIA (amending section 506 of the FD&C Act) requires  
493 FDA to “tak[e] into account . . . the availability or lack of alternative treatments.”

494

495 Amended section 506(c) may reasonably be interpreted as providing additional flexibility as  
496 compared to the regulations. Specifically, section 506(c) broadens use of the accelerated  
497 approval pathway to cases in which the advantage of a new drug over available therapy may not  
498 be a direct therapeutic advantage, but is a clinically important improvement from a patient and  
499 public health perspective. The discussion of unmet medical need in [Section III.C.2](#) provides  
500 examples of situations in which a drug could be shown to provide a meaningful advantage over  
501 available therapy, including some in which there may not be a demonstrated direct therapeutic  
502 advantage. [Section III.B](#) describes what constitutes available therapy for purposes of  
503 determining whether a drug provides a meaningful advantage.

504

505

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<sup>15</sup> 21 CFR 314.500 and 601.40.

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### **B. Accelerated Approval Endpoints**

There are two types of endpoints that can be used as a basis for accelerated approval: (1) a surrogate endpoint that is considered reasonably likely to predict clinical benefit; and (2) a clinical endpoint that can be measured earlier than irreversible morbidity or mortality (IMM) that is reasonably likely to predict an effect on IMM or other clinical benefit (also see [Section VII.D.2](#)). For purposes of this guidance, these categories of endpoints are referred to as surrogate endpoints and intermediate clinical endpoints, respectively.

A clinical endpoint is a characteristic or variable that directly measures a therapeutic effect of a drug—an effect on how a patient feels (e.g., symptom relief), functions (e.g., improved mobility), or survives.

A clinical benefit is a positive therapeutic effect that is clinically meaningful in the context of a given disease. The clinical benefit must be weighed against a treatment’s risks to determine whether there is an overall benefit for patients (i.e., a positive benefit-risk profile).

#### *1. Surrogate Endpoints*

For purposes of accelerated approval, a surrogate endpoint is a marker, such as a laboratory measurement, radiographic image, physical sign, or other measure that is thought to predict clinical benefit, but is not itself a measure of clinical benefit. Depending on the strength of the evidence supporting the ability of a marker to predict clinical benefit, the marker may be a surrogate endpoint that is known to predict clinical benefit (a validated surrogate endpoint, which could be used for traditional approval), a surrogate endpoint that is reasonably likely to predict a drug’s intended clinical benefit (which could be used for accelerated approval), or a marker for which there is insufficient evidence to support reliance on the marker as either kind of surrogate endpoint (and thus cannot be used to support traditional or accelerated approval of a marketing application).

HIV viral load, as evidenced by a laboratory measure of HIV in plasma, has been shown to correlate with morbidity and mortality associated with HIV disease, but is not a direct measure of clinical benefit. Prolonged suppression of viral load is known to reliably predict an effect on survival.

#### *2. Intermediate Clinical Endpoints (clinical endpoints that can be measured earlier than an effect on irreversible morbidity or mortality)*

For purposes of accelerated approval, an intermediate clinical endpoint is a measurement of a therapeutic effect that is considered reasonably likely to predict the clinical benefit of a drug, such as an effect on IMM.

A threshold question is whether the demonstrated therapeutic effect alone would be a basis for traditional approval. For example, traditional approval would be appropriate where the effect is modest, but a sufficiently meaningful benefit within the context of the disease to provide a

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553 favorable risk-benefit profile. If the therapeutic effect is not a clinical benefit and a basis for  
554 traditional approval, accelerated approval could be an option if there is a basis for concluding  
555 that the therapeutic effect is reasonably likely to predict the ultimate clinical benefit of a drug.  
556 FDA has limited experience with accelerated approvals based on intermediate clinical endpoints.  
557 However, we believe intermediate clinical endpoints generally would be used to support  
558 accelerated approval in the following types of situations:  
559

- 560 • The study results for a clinical endpoint demonstrate a therapeutic effect that would not  
561 support traditional approval because:
  - 562 ○ The effect is not a clinical benefit
  - 563
  - 564
  - 565 ○ The effect is only a modest benefit within the context of the disease that alone  
566 would not justify the risks associated with the drug, but there is an evidentiary  
567 basis to conclude that the effect is reasonably likely to predict an effect on IMM  
568 or other clinical benefit that would be a basis for traditional approval
  - 569
- 570 • A clinical endpoint demonstrates a relatively short-term clinical benefit in a chronic  
571 disease setting in which it is essential to confirm longer-term durability of the clinical  
572 benefit for traditional approval but the short-term benefit is reasonably likely to predict  
573 long-term benefit
- 574
- 575 • A clinical endpoint demonstrates a clinical benefit that is reasonably likely to predict an  
576 effect on IMM in a disease setting in which it is essential to confirm the effect on IMM,  
577 (e.g., because available therapy has established effects on IMM)  
578

579 FDA expects that most demonstrations of clinical benefit would be a basis for traditional  
580 approval. Sponsors considering a development program for accelerated approval based on an  
581 intermediate clinical endpoint should discuss their development program with the appropriate  
582 review division early in drug development.  
583

### **C. Evidentiary Criteria for Accelerated Approval**

584  
585  
586 Drugs granted accelerated approval must meet the same statutory standards for safety and  
587 effectiveness as those granted traditional approval.<sup>16</sup> For effectiveness, the standard is  
588 substantial evidence based on adequate and well-controlled clinical investigations.<sup>17</sup> For safety,  
589 the standard is having sufficient information to determine whether the drug is safe for use under  
590 conditions prescribed, recommended, or suggested in the proposed labeling.<sup>18</sup> Under accelerated  
591 approval, FDA can rely on a particular kind of evidence, such as a drug's effect on a surrogate  
592 endpoint, as a basis for approval (and ensure that remaining doubts about the relationship of the

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<sup>16</sup> Section 505(d) of the FD&C Act.

<sup>17</sup> Section 505(d)(5) of the FD&C Act.

<sup>18</sup> Section 505(d)(1) of the FD&C Act.

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593 effect on the surrogate to clinical benefit are resolved by additional post-approval studies).<sup>19</sup> An  
594 application for accelerated approval should also include evidence that a surrogate or intermediate  
595 clinical endpoint is reasonably likely to predict the intended clinical benefit of a drug.

596

### 597 *1. Whether an Endpoint Is “Reasonably Likely to Predict” Clinical Benefit*

598

599 Whether an endpoint is reasonably likely to predict clinical benefit is a function of the biological  
600 plausibility of the relationship between the disease, endpoint, and the desired effect, and the  
601 empirical evidence to support that relationship. The empirical evidence may include  
602 “epidemiological, pathophysiological, therapeutic, pharmacologic, or other evidence developed  
603 using biomarkers, for example, or other scientific methods or tools.”<sup>20</sup> Evidence of  
604 pharmacologic activity alone is not sufficient, however.<sup>21</sup> Clinical data should be provided to  
605 support the assertion that a relationship of the surrogate or intermediate clinical endpoint to the  
606 outcome is reasonably likely, and should be relevant to the relationship between the specific  
607 endpoint to be used and the specific intended clinical benefit of the drug.

608

609 Whether a drug effect on a given endpoint is reasonably likely to predict clinical benefit is a  
610 matter of judgment. FDA considers all relevant evidence and weighs the uncertainty against the  
611 severity of the disease to be treated and the lack of available therapy. On a case-by-case basis,  
612 FDA will make informed judgments using both internal and external expertise. This guidance  
613 provides an overview of some of the important factors to consider in identifying and assessing  
614 the predictive potential of surrogate or intermediate clinical endpoints. However, this guidance  
615 does not address clinical evidence requirements because they are not readily generalizable.

616

#### 617 *a. Understanding of the disease process*

618

619 Surrogate endpoints are often thought to be a measure of, for example:

- 620 • The underlying cause of the disease (e.g., elevated uric acid and gout, elevated blood  
621 pressure and hypertensive cardiovascular disease, low thyroxin levels and  
622 hypothyroidism)
- 624 • An effect that predicts the ultimate outcome (e.g., tumor shrinkage could be expected to  
625 delay symptomatic progression and improve survival, diuresis could be expected to  
626 improve symptoms of heart failure)
- 628 • The state of the pathophysiologic pathway leading to the clinical outcome (e.g.,  
629 replacement of a missing enzyme or clotting factor)

630

---

<sup>19</sup> Section 506(c) of the FD&C Act. Final Rule, New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval (57 FR at 58948, December 11, 1992).

<sup>20</sup> Section 506(c)(1)(B) of the FD&C Act, as amended by section 901 of FDASIA.

<sup>21</sup> Food and Drug Administration, Final Rule, New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval (57 FR 58942, December 11, 1992).

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631 In such cases, the extent to which the pathophysiology of a disease is understood is an important  
632 factor in determining whether an endpoint is reasonably likely to predict clinical benefit. If the  
633 disease process is complex, has multiple pathophysiologic or causal pathways, and is poorly  
634 understood, it may be difficult to identify a surrogate endpoint. For example, for some  
635 reasonably well-understood enzyme deficiencies, replacement of the deficient enzyme reliably  
636 predicts clinical benefit. In contrast, other enzyme deficiencies may involve a defect for which  
637 the pathophysiologic or causal pathways are not well understood and where enzyme replacement  
638 alone will not reasonably predict the disease course or treatment results.

639  
640 Some effects on well-established, disease-related markers may have little or no ability to predict  
641 clinical benefit. For example, fever occurs with most infectious diseases but lowering a patient's  
642 body temperature with a non-steroidal anti-inflammatory drug does not predict the drug's effect  
643 on the disease (although it could be a pertinent biomarker for an antibiotic). Similarly, in  
644 prostate cancer, increased levels of prostate-specific antigen (PSA) are the result of advancing  
645 tumor burden. Therefore, PSA is correlated with the progression of prostate cancer and risks of  
646 mortality. However, PSA is not the mechanism through which the disease causes morbidity; so,  
647 the effect of a drug on lowering PSA cannot necessarily be relied upon to predict the drug's  
648 clinical benefit.

649  
650 b. Understanding of the relationship between the drug's effect and the  
651 disease process

652  
653 The extent to which a drug's effect on the surrogate endpoint is known to predict an effect on the  
654 disease is critical. Sometimes this relationship can be assessed epidemiologically but it is most  
655 persuasively established by knowing that a drug that affects the surrogate also affects a clinical  
656 outcome. Thus, lowering blood pressure has been shown repeatedly to reduce the incidence of  
657 stroke and cardiovascular disease in people with hypertension. Similarly, killing infecting  
658 bacteria or viruses leads to cure of infectious disease and shrinking a tumor for a sustained period  
659 can lead to improved survival in patients with some cancers. These surrogate endpoint responses  
660 are thus understood to have positive effects on the disease process.

661  
662 Following are examples of factors to consider in identifying and assessing a surrogate endpoint:

- 663
- 664 • Whether there is reliable and consistent epidemiologic evidence supporting the  
665 relationship between the endpoint and the intended clinical benefit<sup>22</sup>
  - 666 • How precisely the epidemiologic relationship between the endpoint and clinical outcome  
667 is defined. (The more precise the relationship, the stronger the basis for concluding that  
668 an effect on the endpoint would have a reasonably well-defined effect on the clinical  
669 outcome)
- 670

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<sup>22</sup> Such a relationship does not always predict a favorable effect, as illustrated by failure of drugs that effectively lower premature ventricular beat rates or raise high-density lipoprotein (HDL) cholesterol to have the expected cardiovascular benefits.

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- 671       • Whether the effect on the endpoint has been shown to predict a clinical benefit with drugs  
672       in the same or a closely related pharmacological class  
673
- 674       • Whether the effect on the endpoint has been shown to predict clinical benefit with other  
675       drugs in the class for the disease being treated  
676

677 If an endpoint has failed to predict clinical benefit in a properly designed trial for a drug in the  
678 same pharmacologic class, or in the same disease or a related disease, that weighs against  
679 reliance on the endpoint as a basis for accelerated approval.  
680

### **D.       Conditions of Accelerated Approval**

#### *1.       Promotional Materials*

685 Unless otherwise informed by the Agency, an applicant must submit to the Agency for  
686 consideration during the preapproval review period copies of all promotional materials, including  
687 promotional labeling as well as advertisements, intended for dissemination or publication within  
688 120 days following marketing approval.<sup>23</sup> After 120 days following marketing approval, unless  
689 otherwise informed by the Agency, the applicant must submit promotional materials at least 30  
690 days prior to the intended time of initial dissemination of the labeling or initial publication of the  
691 advertisement.<sup>24</sup>  
692

#### *2.       Confirmatory Trials*

695 For drugs granted accelerated approval, postmarketing confirmatory trials are generally required  
696 to verify and describe the anticipated clinical benefit or effect on IMM. These trials must be  
697 completed with due diligence.<sup>25</sup> Where confirmatory trials verify clinical benefit, FDA will  
698 generally terminate the requirement.<sup>26</sup>  
699

700 Generally, the confirmatory clinical trial would evaluate a clinical endpoint that directly  
701 measures the clinical benefit. It is a possibility in some cases, however, that additional  
702 evaluation of a surrogate endpoint (e.g., for a longer period), could be persuasive evidence of a  
703 clinical benefit. For example, an effect of relatively short duration on a surrogate endpoint may  
704 be reasonably likely to predict clinical benefit, supporting accelerated approval. A trial  
705 demonstrating that the effect on the same surrogate endpoint persists for an extended duration  
706 may be known to reliably predict such clinical benefit.  
707

708 FDA's accelerated approval regulations provide that postmarketing confirmatory trials to verify  
709 clinical benefit would usually be underway at the time of accelerated approval.<sup>27</sup> Ideally,

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<sup>23</sup> 21 CFR 314.550 and 601.45.

<sup>24</sup> 21 CFR 314.550 and 601.45.

<sup>25</sup> FD&C Act 506(c)(3)(A); 21 CFR 314.510 and 601.41.

<sup>26</sup> 21 CFR 314.560 and 601.46.

<sup>27</sup> 21 CFR 314.510 and 601.41.



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710 confirmatory trials will be underway even earlier -- at the time a marketing application is  
711 submitted. This will help to ensure the confirmatory trials are completed with due diligence and  
712 that it will be known as soon as possible whether the drug provides actual clinical benefit.

713  
714 The design of confirmatory trials should be part of a comprehensive drug development plan and  
715 should be discussed with FDA early in the development process. Applicants should include  
716 timelines in their development plans to help ensure postapproval confirmatory trials are  
717 completed with due diligence. There is concern that the availability of drugs to patients  
718 following accelerated approval may interfere with patient accrual to a confirmatory trial,  
719 especially when the confirmatory trial is in the same disease population as the population for the  
720 drug's accelerated approval indication. For this reason, a confirmatory trial may be conducted in  
721 a study population that differs from the population for which accelerated approval was granted.  
722 This is the usual case in oncology.

723  
724 Another approach is to use an interim analysis of the surrogate endpoint data as the basis for  
725 accelerated approval, with continuation of the randomized trials during the time period when the  
726 surrogate endpoint and interim safety data are being: (1) analyzed, (2) prepared for submission to  
727 FDA, and (3) reviewed by FDA. When the ultimate clinical outcome can be expected over this  
728 additional timeframe, the data to verify the clinical benefit may be nearly complete by the time  
729 of accelerated approval.

730  
731 *3. Withdrawal of Accelerated Approval*

732  
733 FDA may withdraw approval of a drug or indication approved under the accelerated approval  
734 pathway if <sup>28</sup>, for example:

- 735
- 736 • A trial required to verify the predicted clinical benefit of the product fails to verify such  
737 benefit
  - 738
  - 739 • Other evidence demonstrates the product is not shown to be safe or effective under the  
740 conditions of use
  - 741
  - 742 • The applicant fails to conduct any required postapproval trial of the drug with due  
743 diligence
  - 744
  - 745 • The applicant disseminates false or misleading promotional materials relating to the  
746 product
  - 747

748 Approval of a drug may be withdrawn if trials fail to verify clinical benefit or do not demonstrate  
749 sufficient clinical benefit to justify the risks associated with the drug (e.g., show a significantly

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<sup>28</sup> FDCA 506(c)(3). There are additional grounds for withdrawal in Subparts E and H. See 21 CFR 314.530(a) and 601.43(a).

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750 smaller magnitude or duration of benefit than was anticipated based on the observed effect on the  
751 surrogate).

752  
753 If FDA determines there are grounds for withdrawal, the agency may ask the applicant to  
754 voluntarily request withdrawal of approval under 21 CFR 314.150(d) or notify the applicant of  
755 FDA's proposal to withdraw approval in a notice of opportunity for hearing (NOOH). The  
756 NOOH will generally state the proposed grounds for withdrawal of approval.<sup>29</sup> Upon receipt of  
757 an NOOH, an applicant has 15 days to file a written request for a hearing. If an applicant does  
758 not request a hearing within 15 days, the applicant waives its opportunity for hearing.<sup>30</sup> An  
759 applicant may also voluntarily request the Agency to withdraw approval of an application  
760 approved under accelerated approval.<sup>31</sup>

### 761 762 **VIII. PRIORITY REVIEW DESIGNATION**

763  
764 An application for a drug will receive priority review designation if it is for a drug that treats a  
765 *serious condition* and, if approved, would *provide a significant improvement in safety or*  
766 *effectiveness*. In addition, there are specific statutory provisions that provide for priority review  
767 for various types of applications, described in [Section IV](#). A priority designation is intended to  
768 direct overall attention and resources to the evaluation of such applications. This section  
769 describes the qualifying criteria (italicized terms) and the features (e.g., benefits) of priority  
770 review designation. [Appendix 1](#) describes the priority review designation process.

#### 771 772 **A. Qualifying Criteria for Priority Review Designation**

##### 773 774 **1. *Serious Condition***

775  
776 See [Section III.A](#).

##### 777 778 **2. *Demonstrating the Potential To Be a Significant Improvement in Safety or*** 779 ***Effectiveness***

780  
781 On a case-by-case basis, FDA determines whether the proposed drug would be a *significant*  
782 *improvement* in the safety or effectiveness of the treatment, diagnosis, or prevention of a serious  
783 condition. Significant improvement may be illustrated by the following examples:

- 784
- 785 • Evidence of increased effectiveness in treatment, prevention, or diagnosis of a condition
  - 786
  - 787 • Elimination or substantial reduction of a treatment-limiting drug reaction
  - 788
  - 789 • Documented enhancement of patient compliance that is expected to lead to an
  - 790 improvement in serious outcomes

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<sup>29</sup> 21 CFR 314.530(b) and 601.43(b).

<sup>30</sup> 21 CFR 314.530(c)(1) and 601.43(c)(1).

<sup>31</sup> 21 CFR 314.150(c) and 21 CFR 601.5(a).

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- 791       • Evidence of safety and effectiveness in a new subpopulation  
792

793 Although such evidence can come from clinical trials comparing a marketed product with the  
794 investigational drug, a priority review designation can be based on other scientifically valid  
795 information. Generally, if there is an available therapy (see [Section III.B](#)), sponsors should  
796 compare their investigational drug to the available therapy in clinical testing with an attempt to  
797 show superiority related to either safety or effectiveness. Alternatively, sponsors could show the  
798 ability to effectively treat patients who are unable to tolerate, or whose disease failed to respond  
799 to, available therapy or show that the drug can be used effectively with other critical agents that  
800 cannot be combined with available therapy. Although such showings would usually be based on  
801 randomized trials, other types of controls could also be persuasive, for example, historical  
802 controls.<sup>32</sup>  
803

### **B. Features of Priority Review Designation**

804 A priority review designation means FDA’s goal is to take action on the marketing application  
805 within 6 months (compared to 10 months under standard review).  
806  
807  
808

## **IX. GENERAL CONSIDERATIONS**

809  
810 Communication with the Agency is a critical aspect of expedited programs. FDA will strive to  
811 provide a timely response to a sponsor’s inquiry regarding an expedited development program.  
812 It is equally critical that the sponsor respond promptly to FDA’s inquiries. This applies to formal  
813 meetings and related inquiries, written correspondence, and other interactions. In addition to the  
814 many types of formal meetings<sup>33</sup> and correspondence the Agency offers to sponsors, additional  
815 considerations for sponsors of expedited programs are highlighted in this section.  
816  
817

### **A. Manufacturing and Product Quality Considerations**

818 The sponsor of a product that receives an expedited drug development designation will probably  
819 need to pursue a more rapid manufacturing development program to accommodate the  
820 accelerated pace of the clinical program. The sponsor’s product quality team and CMC teams  
821 should initiate early communication with FDA to ensure that the manufacturing development  
822 programs and timing of submissions meet the Agency’s expectations for licensure or marketing  
823 approval.<sup>34</sup>  
824  
825  
826

---

<sup>32</sup> Sponsors contemplating the use of historical controls should consult the ICH guidance for industry *E10 Choice of Control Group and Related Issues in Clinical Trials* (May 2001, ICH) for more detailed discussions.

<sup>33</sup> See the guidance for industry *Formal Meetings Between the FDA and Sponsors or Applications*.

Also see the *CDER 21st Century Review Process Desk Reference Guide* accessible at

<http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/ManualofPoliciesProcedures/UCM218757.pdf>.

<sup>34</sup> See the guidance for industry *IND Meetings for Human Drugs and Biologics Chemistry, Manufacturing, and Controls Information*.

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827 When sponsors receive an expedited drug development designation, they should be prepared to  
828 propose a commercial manufacturing program that will ensure availability of quality product at  
829 the time of approval. The proposal should consider estimated market demand and the  
830 commercial manufacturing development plan, especially with regard to manufacturing facilities,  
831 lifecycle process validation (including scale-up and comparability), methods validation, stability  
832 studies, and potency studies if applicable. The proposal should also include a timeline for  
833 development of the manufacturing capabilities with goals aligned with the clinical development  
834 program. The applicant should ensure that the manufacturing process is sufficiently developed  
835 in order to support the CMC section. After the initial discussion following designation, frequent  
836 communication during development will generally facilitate meeting manufacturing development  
837 and product quality goals.

838  
839 The sponsors of such products should allow for an earlier submission of the CMC section  
840 (including product quality information) for timely review, and, critically, for inspection planning.  
841 Coordination with the sponsor and contract manufacturers may be necessary to ensure facilities  
842 (e.g., the manufacturing process and equipment) are ready for inspection (e.g., during review of  
843 the clinical section of the application). A comprehensive meeting with FDA's product quality  
844 review and evaluation offices in advance of submission may facilitate quality assessment of  
845 products designated for expedited programs.

### **B. Nonclinical Considerations**

846  
847  
848  
849 To ensure timely submission and review of nonclinical data, sponsors should initiate early  
850 communication with FDA for their nonclinical study programs. Considerations, such as study  
851 protocol modifications, sequence and scheduling of studies, and the need for specific studies  
852 (e.g., long-term toxicity), may be important in the context of expedited drug development. FDA  
853 will provide guidance to sponsors on the development of appropriate and timely nonclinical data  
854 needed to support an application for marketing approval or licensure.

### **C. Clinical Inspection Considerations**

855  
856  
857  
858 Sponsors should anticipate the Agency's need to inspect clinical trials, including, if applicable,  
859 the analytical component of bioavailability or bioequivalence studies. Inspections should be  
860 scheduled early in the application review process so inspection results are available to inform the  
861 review division and to allow time for the sponsor to address significant inspection findings. To  
862 select sites for clinical inspections, it is important for reviewers to have timely access to adequate  
863 and accurate data in BLA, NDA, or supplement submissions. Sponsors should initiate early  
864 communication with FDA about information required for inspection planning and conduct.

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### 865 **APPENDIX 1: PROCESSES FOR FAST TRACK, BREAKTHROUGH THERAPY, AND** 866 **PRIORITY REVIEW DESIGNATIONS**

867  
868 This appendix describes general processes applicable to the submission and review of fast track,  
869 breakthrough therapy, and priority review designations.

870

#### 871 **A. Process for Fast Track Designation**

872

##### 873 *1. When to Send a Designation Submission*

874

875 Sponsors may submit fast track designation requests when the IND is first submitted or at any  
876 time thereafter before receiving marketing approval of its BLA or NDA. The IND and potential  
877 fast track designation may be discussed before an IND submission in a pre-IND meeting, but a  
878 decision on designation would await submission of the IND. As a practical matter, requests  
879 should ordinarily occur no later than the sponsor's pre-BLA or pre-NDA meeting with the  
880 Agency because many of the features of fast track designation will not apply after that time.

881

##### 882 *2. Where to Send a Designation Submission*

883

884 The IND or amendment should be sent to the attention of the appropriate review division or  
885 office in CBER or CDER.

886

##### 887 *3. Content of a Designation Submission*

888

889 Fast track designation requests should contain the following information (in most cases, this  
890 information could be captured in approximately 10 to 20 pages):

891

892 • If the fast track designation request is submitted to the sponsor's IND as an amendment,  
893 the cover letter should indicate the submission as a **REQUEST FOR FAST TRACK**  
894 **DESIGNATION** in bold, uppercase letters. If the request is submitted with an initial  
895 IND, the cover letter should indicate the submission as both an **INITIAL**  
896 **INVESTIGATIONAL NEW DRUG SUBMISSION** and **REQUEST FOR FAST**  
897 **TRACK DESIGNATION** in bold, uppercase letters.

898

899 • In the cover letter of the submission include the name of the sponsor's contact person,  
900 including the person's address, email address, telephone number, and fax number.

901

902 • If applicable, the IND application number should be noted.

903

904 • If available, include, for drug products, the proprietary name and active ingredient and,  
905 for biological products, the proper name and trade name.

906

907 • The division or office to which the IND is being submitted or in which it is active.

908

909 • The proposed indication(s).

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- 910
- A concise summary of information that supports the fast track designation request for the indication being studied, including:

911

912

    - The basis for considering the drug to be one intended to treat a serious condition
    - The basis for considering the drug to have the potential to address an unmet medical need and an explanation of how this potential is being evaluated in the planned drug development program (e.g., a description of the trials intended to evaluate this potential)

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914

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  - If applicable, include a list of documents previously submitted to the IND that are considered relevant to the designation request, with reference to submission dates. Paper submissions can be resubmitted to FDA as appendices to the designation request.

### *4. FDA Response*

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FDA will respond to fast track designation requests within 60 calendar days of receipt of the request.

#### *a. Designation letter*

929

930

931

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933

If the Agency determines that the criteria for designation as a fast track drug development program have been met, the designation letter will:

- State that fast track designation is granted for development of the product for use in treating the specific serious condition
- Point out that the sponsor should design and perform studies that can show whether the product fulfills an unmet medical need
- Alert the sponsor to the need for the drug development program to continue to meet the criteria for fast track designation

#### *b. Nondesignation letter*

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If the Agency determines that a fast track designation request was incomplete or that the drug development program failed to meet the criteria for fast track designation, the Agency will send a nondesignation letter to the sponsor. The nondesignation letter will state that fast track designation is not granted and explain the reasons for the Agency's decision.

### *5. Continued Fast Track Designation*

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954

Over the course of drug development, it is foreseeable that certain products in fast track drug development programs will not continue to meet the criteria for fast track designation. A drug product in a fast track development program may not continue to meet the criteria if the drug: (1)

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955 no longer demonstrates a potential to address unmet medical need or (2) is not being studied in a  
956 manner that shows the drug product can treat a serious condition and fulfills an unmet medical  
957 need. The drug product may no longer demonstrate a potential to address unmet medical need,  
958 for example, if a new product was approved under a traditional approval that addressed the same  
959 need, or if emerging clinical data failed to show that the product in a fast track development  
960 program had the anticipated advantage over available therapy. For products in fast track drug  
961 development programs, the Agency expects that the appropriateness of considering particular  
962 drug development plans as part of the fast track program will be discussed and evaluated during  
963 the drug development process, including at the end-of-Phase 2 meeting and the pre-BLA or pre-  
964 NDA meeting. If the sponsor recognizes that the fast track drug development program will no  
965 longer be pursued, the sponsor should inform the Agency of this change.

966  
967 When fast track designation is no longer supported by emerging data or the designated drug  
968 development program is no longer being pursued, the Agency may choose to send a letter  
969 notifying the sponsor that the program is no longer designated as a fast track drug development  
970 program.

971

### **B. Process for Breakthrough Therapy Designation**

973

#### *1. When to Send a Designation Submission*

975

976 Although sponsors may request breakthrough therapy designation at the time of IND submission,  
977 or at any time afterward, they should not send breakthrough therapy designation requests until  
978 they have preliminary clinical evidence indicating that “the drug may demonstrate substantial  
979 improvement over existing therapies on 1 or more clinically significant endpoints.”<sup>35</sup> FDA  
980 expects that in most cases breakthrough therapy designation requests would be submitted as an  
981 amendment to the IND, but a sponsor could also submit its request with the original IND.  
982 Ideally, a breakthrough therapy designation request should be received by FDA no later than the  
983 end-of-Phase-2 meetings if any of the features of the designation are to be obtained. Because the  
984 primary intent of breakthrough therapy designation is to develop evidence needed to support  
985 approval as efficiently as possible, FDA does not anticipate that breakthrough therapy  
986 designation requests will be made after the submission of an original BLA or NDA or a  
987 supplement.

988

#### *2. Where to Send a Designation Submission*

990

991 The IND or amendment should be submitted to the attention of the appropriate review division  
992 or office in CBER or CDER.

993

#### *3. Content of a Designation Submission*

995

996 Breakthrough therapy designation requests should contain the following information (in most  
997 cases, this information could be captured in approximately 10 to 20 pages):

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<sup>35</sup> Section 506(a)(1) of the FD&C Act, as amended by section 902 of FDASIA.

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- 1031
- If the breakthrough therapy designation request is submitted to the sponsor's IND as an amendment, the cover letter should indicate the submission as a **REQUEST FOR BREAKTHROUGH THERAPY DESIGNATION** in bold, uppercase letters. If the request is submitted with an initial IND, the cover letter should indicate the submission as both an **INITIAL INVESTIGATIONAL NEW DRUG SUBMISSION** and **REQUEST FOR BREAKTHROUGH THERAPY DESIGNATION** in bold, uppercase letters.
  - In the cover letter of the submission, the name of the sponsor's contact person, including the person's address, email address, telephone number, and fax number.
  - If applicable, the IND application number should be noted.
  - If available, include, for drug products, the proprietary name and active ingredient and, for biological products, the proper name and trade name.
  - The division or office to which the IND is being submitted or in which it is active.
  - The proposed indication(s).
  - A concise summary of information that supports the sponsor's breakthrough therapy designation request for the indication being studied, including:
    - The basis for considering the drug to be one intended to treat a serious condition
    - The preliminary clinical evidence that the drug may demonstrate substantial improvement over available therapies. A sponsor should describe the preliminary clinical evidence, including, for example, justification for the clinical study endpoint used and a brief description of statistical analyses
  - If applicable, include a list of documents previously submitted to the IND considered relevant to the designation request, with reference to submission dates. Paper submissions can be resubmitted to FDA as appendices to the designation request.

#### *4. FDA Response*

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FDA will respond to breakthrough therapy designation requests within 60 calendar days of receipt of the request.

##### *a. Designation letter*

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1038

1039

1040

If the Agency determines that the criteria for designation as a breakthrough therapy development program have been met, the designation letter will:



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- 1041 • State that breakthrough therapy designation is granted for development of the product for  
1042 use in treating the specific serious condition  
1043
- 1044 • Explain that FDA will work closely with the sponsor to provide guidance on subsequent  
1045 development, including providing advice on generating evidence needed to support the  
1046 drug approval in an efficient manner  
1047
- 1048 • Alert the sponsor to the need for the drug development program to continue to meet the  
1049 criteria for breakthrough therapy designation  
1050

### b. Nondesignation letter

1051  
1052  
1053 If the Agency determines that a breakthrough therapy designation request was incomplete or  
1054 failed to meet the criteria for breakthrough therapy designation, the Agency will send a  
1055 nondesignation letter to the sponsor. The nondesignation letter will state that a breakthrough  
1056 therapy designation is not granted and explain the reasons for the Agency's decision.  
1057

### 5. *Continued Designation as a Breakthrough Therapy Development Program*

1058  
1059  
1060 Over the course of drug development, it is foreseeable that certain products in breakthrough  
1061 therapy development programs will no longer be considered a breakthrough therapy. For  
1062 example, a drug's development program may be granted breakthrough therapy designation using  
1063 early clinical testing that shows a much higher response rate than available therapies. However,  
1064 subsequent interim data derived from a larger study may show a response that is substantially  
1065 smaller than the response seen in early clinical testing. Another example is where breakthrough  
1066 therapy designation is granted to two drugs that are being developed for the same use. If one of  
1067 the two drugs gains traditional approval, the other would not retain its designation unless its  
1068 sponsor provided evidence that the drug may demonstrate substantial improvement over the  
1069 recently approved drug. Additionally, if the sponsor recognizes that the development program  
1070 designated as breakthrough therapy will no longer be pursued, the sponsor should inform the  
1071 Agency of this change.  
1072

1073 When breakthrough therapy designation is no longer supported by emerging data or the  
1074 designated drug development program is no longer being pursued, the Agency may choose to  
1075 send a letter notifying the sponsor that the program is no longer designated as a breakthrough  
1076 therapy development program.  
1077

### **C. Process for Priority Review Designation**

1078  
1079  
1080 FDA determines whether an application qualifies for priority review (versus standard review) for  
1081 every application, not just when requested by the applicant. However, an applicant may  
1082 expressly request priority review as described in the following sections.  
1083  
1084

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### 1085 1. *When to Send a Designation Submission*

1086  
1087 Sponsors may request priority review designation when they submit an original BLA, NDA, or  
1088 efficacy supplement. The Agency does not anticipate that priority review designation requests  
1089 will be made after the filing of a BLA, NDA, or efficacy supplement.

### 1091 2. *Where to Send a Designation Submission*

1092  
1093 Priority review designation requests may be submitted with the original BLA, NDA, or efficacy  
1094 supplement.

### 1096 3. *Content of a Designation Submission*

1097  
1098 Priority review designation requests should contain the following information:

- 1099 • The cover letter included with the request should be clearly identified as a **REQUEST**  
1100 **FOR PRIORITY REVIEW DESIGNATION** in bold, uppercase letters.
- 1101
- 1102 • In the cover letter of the submission include the name of the sponsor's contact person,  
1103 including the person's address, email address, telephone number, and fax number.
- 1104
- 1105 • If available, include, for drug products, the proprietary name and active ingredient and,  
1106 for biological products, the proper name and trade name.
- 1107
- 1108 • The proposed indication(s).
- 1109
- 1110 • A concise summary of information that supports the priority review designation request,  
1111 including:  
1112
  - 1113 ○ The basis for considering the drug to be intended to treat a serious condition
  - 1114
  - 1115 ○ The basis for the assertion that the drug would be a significant improvement in the  
1116 safety or effectiveness of the treatment, diagnosis, or prevention of a serious  
1117 condition
  - 1118
  - 1119

### 1120 4. *FDA Response*

1121  
1122 The Agency will inform the applicant in writing of a priority review designation by Day 60 of  
1123 the review. The division will inform the applicant in writing of a standard review designation by  
1124 Day 74 of the review. Applications that are not filed do not receive a review designation.

### 1126 5. *Continued Priority Review Designation*

1127  
1128 After priority review designation is assigned, the timeline will not change during the first review  
1129 cycle, even if a redetermination of review status is made because of approval of other drugs,

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1130 availability of new data, or submission of a request for dispute resolution by the applicant. In  
1131 addition, applications filed over protest are assigned a standard review. If the application is  
1132 resubmitted after FDA's refuse-to-file decision or if the application is withdrawn before FDA's  
1133 action and then resubmitted, FDA will make its determination of review designation based on the  
1134 resubmitted application.

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### 1135 **APPENDIX 2: PROCESSES FOR ROLLING REVIEW**

1136  
1137 This appendix describes general processes applicable to the submission and review of portions of  
1138 an application, a feature of fast track designation (see [Section V.B.2](#)).  
1139

#### 1140 **A. Agreement on Proposal**

1141  
1142 Sponsors obtain preliminary Agency agreement on the proposal at the pre-BLA or pre-NDA  
1143 meeting. At the meeting, the sponsor and the review division should discuss: (1) the data that  
1144 will be used to support effectiveness, (2) the schedule for submission of each portion of the  
1145 BLA or NDA, and (3) a description of portions of the application to be submitted separately.  
1146 A request to submit portions of an application ordinarily should be included in the  
1147 information package for the pre-BLA or pre-NDA meeting. If a sponsor seeks to submit  
1148 portions of an application to the IND after the pre-BLA or pre-NDA meeting, the sponsor  
1149 should make such a request and provide a proposed schedule for submission of portions of an  
1150 application to the IND as soon as possible.  
1151

1152 A request for submission of portions of an application should be sent as an amendment to the  
1153 IND for the product in a fast track drug development program; attach Form FDA 1571. The  
1154 amendment should be clearly identified as a “**REQUEST FOR SUBMISSION OF**  
1155 **PORTIONS OF AN APPLICATION**” in bold uppercase letters. A sponsor may apply for  
1156 fast track designation and submission of portions of a BLA or NDA at the same time. In such  
1157 cases, sponsors should submit requests as one amendment to the IND. FDA responds to  
1158 sponsors’ requests for submission of portions of an application by letter. FDA also responds  
1159 to changes to an agreement to accept portions of an application by letter.  
1160

#### 1161 **B. Portions of an Application Eligible for Early Submission**

1162  
1163 Generally, the Agency accepts for submission a complete section of a BLA or NDA only,  
1164 such as the entire CMC section, toxicology section, or clinical section.<sup>36</sup> A section of a BLA  
1165 or NDA should be submitted for review in a form adequate to have been included in a  
1166 complete BLA or NDA submission. Drafts should not be included in a submission; if final  
1167 reports need to be updated, the applicant should submit a formal amendment to the BLA or  
1168 NDA with the revised information. Occasionally, the Agency may, in its discretion, accept  
1169 less than a complete section if the Agency determines that such a subsection would constitute  
1170 a reviewable unit and be useful in making the review process more efficient (e.g., less than a  
1171 complete section could be a CMC section lacking final consistency lot data and long term  
1172 stability data, an acute toxicology section lacking chronic toxicology data, final study reports  
1173 for some or all of the principal controlled trials without integrated summaries). The sponsor  
1174 should confirm these subsections are final reports.  
1175

1176 At the pre-BLA or pre-NDA meeting, the Agency and the sponsor should work together to  
1177 clearly define the parameters of accepting an incomplete section and to determine whether

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<sup>36</sup> Form FDA 356h may be a useful guide to items in a BLA or NDA.

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1178 FDA could conduct a meaningful review of the submission before receiving the missing  
1179 information.

1180

### **C. Submission of User Fees**

1182

1183 A sponsor is required to pay applicable fees as stated in section 736 of the FD&C Act before  
1184 FDA may commence review of any portion of an application. The applicant should submit Form  
1185 FDA 3397 with applicable user fees and follow the same procedures as those followed when a  
1186 complete application is submitted.

1187

### **D. Commencement of Review**

1189

1190 If FDA accepts a portion of an application, this does not necessarily mean that review will  
1191 commence or proceed before we receive the complete application. Actual commencement and  
1192 scheduling of review depends on many factors, including staffing, workload, competing  
1193 priorities, timeline for completion of applications, and the perceived efficiency of commencing  
1194 review before receipt of the complete submission.

1195

### **E. Calculation of Review Time**

1197

1198 The review clock will not begin until the applicant informs the Agency that a complete BLA or  
1199 NDA was submitted.<sup>37</sup> After the Agency is notified of the complete application, we will make a  
1200 filing determination within the usual time.<sup>38</sup>

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<sup>37</sup> Section 506(d)(2) of the FD&C Act provides that any time period for review of human drug applications shall not apply until the date on which the application is complete.

<sup>38</sup> 21 CFR 314.101 and CBER SOPP 8404, *Refusal to File Procedures for Biologic License Applications* (August 27, 2007), available on the Internet at <http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/ProceduresSOPPs/ucm073474.htm>.