requires that the beneficiary need at least one of the following services as certified by a physician in accordance with § 424.22: Intermittent skilled nursing services and the need for skilled services which meet the criteria in § 409.32; Physical therapy which meets the requirements of § 409.44(c), Speech-language pathology which meets the requirements of § 409.44(c); or have a continuing need for occupational therapy that meets the requirements of § 409.44(c), subject to the limitations described in § 409.42(c)(4). On March 23, 2010, the Affordable Care Act of 2010 (Pub. L., 111–148) was enacted. Section 6407(a) (amended by section 10605) of the Affordable Care Act amends the requirements for physician certification of home health services contained in Sections 1814(a)(2)(C) and 1835(a)(2)(A) by requiring that, prior to certifying a patient as eligible for Medicare's home health benefit, the physician must document that the physician himself or herself or a permitted non-physician practitioner has had a face-to-face encounter (including through the use of tele-health services, subject to the requirements in section 1834(m) of the Act)'', with the patient. The Affordable Care Act provision does not amend the statutory requirement that a physician must certify a patient's eligibility for Medicare's home health benefit, (see Sections 1814(a)(2)(C) and 1835(a)(2)(A) of the Act. *Form Number:* CMS–10311 (OMB control number: 0938–1083); *Frequency:* Yearly; *Affected Public:* Business or other For-profits; *Number of Respondents:* 345,600; *Total Annual Responses:* 345,600; *Total Annual Hours:* 28,800. (For policy questions regarding this collection contact Hillary Loeffler at 410–786–0456.)

7. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Patient's Request for Medicare Payment; *Use:* The Form CMS–1490S form provides beneficiaries with a relatively easy form to use when filing their claims. Without the collection of this information, claims for reimbursement relating to the provision of Part B medical services/supplies could not be acted upon. This would result in a nationwide paralysis of the operation of the Federal Government's Part B Medicare program, and major problems for the patients/beneficiaries inflicting severe physical and financial hardship on beneficiaries. This form was explicitly developed for easy use by beneficiaries who file their own claims. The CMS–1490S form can be obtained from any Social Security office or Medicare Administrative Contractors or CMS. When the CMS–1490S is used, the beneficiary must attach to it his/her bills from physicians or suppliers. The form is, therefore, designed specifically to aid beneficiaries who cannot get assistance from their physicians or suppliers for completing claim forms. The form is currently approved under 0938–1197; however, we are submitting for approval as a standalone information collection request. Once a new OMB control number is issued, we will remove the burden for the CMS–1490S that is currently approved under OMB control number 0938–1197. *Form Number:* CMS–1490 (OMB control number: 0938–NEW); *Frequency:* Occasionally *Affected Public:* Individuals and Households; *Number of Respondents:* 167,839; *Total Annual Responses:* 167,839; *Total Annual Hours:* 83,920. (For policy questions regarding this collection contact Sumita Sen at 410–786–5755.)

8. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2018 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug (PD) plans or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion application. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 463; *Total Annual Responses:* 160; *Total Annual Hours:* 1,565. (For policy questions regarding this collection contact Arianne Spaccarelli at 410–786–5715.)

9. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Applications for Part C Medicare Advantage, 1876 Cost Plans, and Employer Group Waiver Plans to Provide Part C Benefits; *Use:* This information collection includes the process for organizations wishing to provide healthcare services under MA and/or MA–PD plans must complete an application annually, file a bid, and receive final approval from CMS. The application process has two options for applicants that include: Request for new MA product or request for expanding the service area of an existing product. This collection process is the only mechanism for MA and/or MA–PD organizations to complete the required application process. CMS utilizes the application process as the means to review, assess and determine if applicants are compliant with the current requirements for participation in the Medicare Advantage program and to make a decision related to contract award. *Form Number:* CMS–10237 (OMB control number: 0938–0935); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other For-profits and Not-for-profit institutions); *Number of Respondents:* 310; *Total Annual Responses:* 310; *Total Annual Hours:* 10,941. (For policy questions regarding this collection contact Marcella Watts at 410–786–5724.)

Dated: October 26, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–26242 Filed 10–28–16; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–3083]

Report on the Performance of Drug and Biologics Firms in Conducting Postmarketing Requirements and Commitments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: Under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), the Food and Drug Administration (FDA or Agency) is required to report annually in the **Federal Register** on the status of postmarketing requirements (PMRs) and postmarketing commitments (PMCs) required of, or agreed upon by, holders of approved drug and biological products. This notice is the Agency's report on the status of the studies and clinical trials that applicants have agreed to, or are required to, conduct. A supplemental report entitled ''Supplementary Report: Performance of Drug and Biologics Firms in Conducting Postmarketing

Requirements (PMRs) and Postmarketing Commitments (PMCs) (FY 2013 and FY 2014),'' containing additional information and analyses on the status of PMRs and PMCs as of September 30, 2013, and September 30, 2014, is available on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PostmarketingPhaseIVCommitments/ucm064436.htm*.

FOR FURTHER INFORMATION CONTACT: Cathryn C. Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6484, Silver Spring, MD 20993–0002, 301–796–0700; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

A. Postmarketing Requirements and Commitments

A PMR is a study or clinical trial that an applicant is required by statute or regulation to conduct postapproval. A PMC is a study or clinical trial that an applicant agrees in writing to conduct postapproval, but that is not required by statute or regulation. PMRs and PMCs can be issued upon approval of a drug [1] or postapproval, if warranted.

FDA can require application holders to conduct postmarketing studies and clinical trials:

- To assess a known serious risk, assess signals of serious risk, or identify an unexpected serious risk (when available data indicates the potential for a serious risk) related to the use of a drug product (section 505(o)(3) of the FD&C Act, as added by the Food and Drug Administration Amendments Act of 2007 (FDAAA)).
- Under the Pediatric Research Equity Act (PREA), to study certain new drugs for pediatric populations, when these drugs are not adequately labeled for children. Under section 505B(a)(3) of the FD&C Act, the initiation of these studies may be deferred until required safety information from other studies in adults has first been submitted and reviewed.
- To verify and describe the predicted effect or other clinical benefit for drugs approved in accordance with the accelerated approval provisions in section 506(c)(2)(A) of the FD&C Act (21 CFR 314.510 and 601.41).
- For a drug that was approved on the basis of animal efficacy data because human efficacy trials are not ethical or feasible (21 CFR 314.610(b)(1) and 601.91(b)(1)). PMRs for drug products approved under the animal efficacy rule [2] can be conducted only when the drug product is used for its indication and when an exigency (or event or need) arises. In the absence of a public health emergency, these studies or clinical trials will remain pending indefinitely.

B. Reporting Requirements

Under the regulations (21 CFR 314.81(b)(2)(vii) and 601.70), applicants of approved drugs are required to submit annually a report on the status of each clinical safety, clinical efficacy, clinical pharmacology, and nonclinical toxicology study or clinical trial either required by FDA or that they have committed to conduct, either at the time of approval or after approval of their new drug application (NDA), abbreviated new drug application (ANDA), or biologics license application (BLA). Applicants are required to report to FDA on these requirements and commitments made for NDAs and ANDAs under 21 CFR 314.81(b)(2)(viii), and for BLAs under 21 CFR 601.70(b). The status of PMCs concerning chemistry, manufacturing, and production controls and the status of other studies or clinical trials conducted on an applicant's own initiative are not required to be reported under 21 CFR 314.81(b)(2)(vii) and 601.70 and are not addressed in this report. Furthermore, section 505(o)(3)(E) of the FD&C Act requires that applicants report periodically on the status of each required study or clinical trial and each study or clinical trial ''otherwise undertaken . . . to investigate a safety issue . . . .''

An applicant must report on the progress of the PMR/PMC on the anniversary of the drug product's approval [3] until the PMR/PMC is completed or terminated and FDA determines that the PMR/PMC has been fulfilled or that the PMR/PMC is either no longer feasible or would no longer provide useful information. The annual status report (ASR) must include a description of the PMR/PMC, a schedule for completing the PMR/PMC, and a characterization of the current status of the PMR/PMC. The report must also provide an explanation of the PMR/PMC status by describing briefly the progress of the PMR/PMC. A PMR/PMC schedule is expected to include the actual or projected dates for the following: (1) Submission of the final protocol to FDA; (2) completion of the study or clinical trial; and (3) submission of the final report to FDA.

C. PMR/PMC Status Categories

The status of the PMR/PMC must be described in the ASR according to the terms and definitions provided in 21 CFR 314.81 and 601.70. For its own reporting purposes, FDA has also established terms to describe when the conditions of the PMR/PMC have been met, and when it has been determined that a PMR/PMC is no longer necessary.[4] The PMR/PMC status categories are summarized in the following list. As reflected in the definitions, the status of a PMR/PMC is generally determined based on the original schedule.[5]

- *Pending:* The study or clinical trial has not been initiated (*i.e.,* no subjects have been enrolled or animals dosed), but does not meet the criteria for delayed (*i.e.,* the original projected date for initiation of subject accrual or initiation of animal dosing has not passed).[6]
- *Ongoing:* The study or clinical trial is proceeding according to or ahead of the original schedule.
- *Delayed:* The study or clinical trial is behind the original schedule.[7]
- *Terminated:* The study or clinical trial was ended before completion, but

[1] For the purposes of this notice, references to ''drugs'' or ''drug products'' include drugs approved under the FD&C Act and biological products licensed under the Public Health Service Act, other than biological products that also meet the definition of a device in section 201(h) of the FD&C Act (21 U.S.C. 321(h)).

[2] 21 CFR 314.600 for drugs; 21 CFR 601.90 for biological products.

[3] An applicant must submit an annual status report on the progress of each open PMR/PMC within 60 days of the anniversary date of U.S. approval of the original application or on an alternate reporting date that was granted by FDA in writing. Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

[4] See the guidance for industry entitled ''Reports on the Status of Postmarketing Study Commitments—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997.'' We update guidances periodically. To make sure you have the most recent version of a guidance, check the FDA Drugs guidance Web page at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

[5] The definitions for the terms ''pending,'' ''ongoing,'' ''delayed,'' ''terminated,'' and ''submitted'' are adapted from 21 CFR 314.81 and 601.70; the definitions for the terms ''fulfilled'' and ''released'' are described in the guidance for industry entitled ''Reports on the Status of Postmarketing Study Commitments—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997.''

[6] It is important to note that PMRs/PMCs that are in pending status are not yet delayed; that is, per the milestones, the studies or clinical trials are indeed on schedule and are not expected to be underway yet.

[7] In some instances, an applicant may have justifiable reasons for delay of its PMR/PMC (see section I.D).

a final report has not been submitted to FDA.

- *Submitted:* The study or clinical trial has been completed or terminated, and a final report has been submitted to FDA.
- *Fulfilled:* The final report for the study or clinical trial was submitted to FDA and FDA notified the applicant that the requirement or commitment was fulfilled through written correspondence.
- *Released:* FDA has informed the applicant in writing that it is released from its obligation to conduct the study or clinical trial because the study or clinical trial is no longer feasible, would no longer provide useful information, or the underlying application has been formally withdrawn.

In addition to the above statuses, PMRs/PMCs may also be characterized as closed or open. ''Open'' PMRs/PMCs comprise those that are pending, ongoing, delayed, submitted, or terminated; whereas ''closed'' [8] PMRs/PMCs are either fulfilled or released. Open PMRs are also described by whether they are on- or off-schedule. ''On-schedule'' PMRs/PMCs are those that are pending, ongoing, or submitted. ''Off-schedule'' PMRs/PMCs are those that have missed one of the milestone dates in the original schedule and are categorized as either delayed or terminated.

D. Additional Requirements

If an applicant fails to comply with the original schedule for completion of postmarketing studies or clinical trials required under section 505(o)(3) of the FD&C Act (*i.e.,* under the FDAAA authorities), or fails to submit periodic reports on the status of the studies or clinical trials, the applicant is considered to be in violation of section 505(o)(3), unless it has demonstrated ''good cause'' for its noncompliance or other violation. Failure to meet an original milestone and, as a result, falling behind the original schedule is one type of noncompliance with a PMR issued under FDAAA. In these circumstances, the FDAAA PMR is considered delayed, with or without good cause.

Section 505B(a)(3)(B) of the FD&C Act, as amended by the Food and Drug Administration Safety and Innovation Act, authorizes FDA to grant an extension of deferral of pediatric assessments that are required under PREA.[9] On its own initiative or upon request, FDA may grant an extension of a pediatric assessment deferral, provided that certain applicable PREA criteria for deferral are still met and the applicant submits certain materials in support of the extension.[10] Applicants must submit requests for deferral extensions to FDA not less than 90 days before the date the deferral would otherwise expire. If FDA grants the extension of a pediatric study deferral, this new deferral date is considered the original due date of the PMR. Consequently, the status of PREA PMRs would be determined based on the new deferral date (and not the original PREA PMR schedule).

FDA may take enforcement action against applicants who are noncompliant with or otherwise fail to conduct studies and clinical trials required under FDA statutes and regulations (see, for example, sections 505(o)(1), 502(z), and 303(f)(4) of the FD&C Act (21 U.S.C. 355(o)(1), 352(z), and 333(f)(4))).

II. Understanding FDA's Data on Postmarketing Studies and Clinical Trials

A. FDA's Internal PMR/PMC Databases

Databases containing information on PMRs/PMCs are maintained at the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). The information in these databases is periodically updated as new PMRs/PMCs are issued, upon FDA review of PMR/PMC ASRs or other PMR/PMC correspondence, upon receipt of final reports from completed studies and clinical trials, and after the final reports are reviewed and FDA determines that the PMR/PMC has been fulfilled, or when FDA determines that the PMR/PMC is either no longer feasible or would no longer provide useful information. Because applicants typically report on the status of their PMRs/PMCs annually, and because updating the status of PMRs/PMCs in FDA's databases involves FDA review of received information, there is an inherent lag in updating the data (that is, the data are not ''real time''). FDA strives to maintain as accurate information as possible on the status of PMRs/PMCs.

Both CDER and CBER have established policies and procedures to help ensure that FDA's data on PMRs/PMCs are current and accurate. When identified, data discrepancies are addressed as expeditiously as possible and/or are corrected in later reports.

In 2013, CDER initiated an internal audit of a sample of PMRs and PMCs that had been established after March 25, 2008,[11] to ascertain the accuracy of their status. The effort resulted in revisions to the status of certain PMRs/PMCs, and procedures to improve tracking and accuracy of data on PMRs and PMCs. The details of this audit and ensuing activities are summarized in an accompanying supplemental report that is available on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PostmarketingPhaseIVCommitments/ucm064436.htm*. CDER's internal audit of its PMR/PMC data and subsequent processes for verifying and updating PMR/PMC status took several months to complete, therefore delaying FDA's reporting on PMR/PMC status for fiscal year 2013 (FY2013). As such, this report includes CDER and CBER information for both FY2013 and fiscal year 2014 (FY2014).

B. Publicly Available PMR/PMC Data

FDA also maintains an online searchable and downloadable database that contains information about PMRs/PMCs that is publicly reportable (*i.e.,* for which applicants must report on the status of the study or clinical trial, as required under section 506B of the FD&C Act). The data are a subset of all PMRs/PMCs and reflect only those postmarketing studies and clinical trials that, at the time of data retrieval, either had an open status or were closed within the past year. Information on PMRs/PMCs closed more than a year before the date the data are extracted (*i.e.,* September 30 of the reporting fiscal year) are not included on the public Web site. The FDA Web site is updated quarterly.[12] The FDA Web site does not include information about PMCs concerning chemistry, manufacturing, and controls. It is FDA policy not to post information on the Web site until

[8] Previous FDA reports on the status of PMRs/PMCs used the term ''completed'' to refer to PMRs/PMCs that are closed.

[9] This provision does not apply to PMRs required under other provisions, or to PMCs.

[10] See section 505B(a)(3)(B) of the FD&C Act.

[11] This is the effective date of FDAAA. FDAAA included a new requirement for FDA to, among other things, review the entire backlog of PMRs and PMCs to determine which ones required revision or should be eliminated, and assign start dates and estimated completion dates for these PMRs and PMCs. FDAAA also gave new authority to require applicants to conduct and report on postmarketing studies or clinical trials to assess or identify a serious risk related to the use of a drug, and to take action against noncompliance with this requirement. Therefore, the effective date of FDAAA resulted in certain changes to FDA's establishment and monitoring of PMRs and PMCs, and the internal audit was intended to evaluate data for a sample of the PMRs and PMCs that had been established after FDAAA took effect.

[12] *http://www.accessdata.fda.gov/scripts/cder/pmc/index.cfm*

it has been verified and reviewed for suitability for public disclosure.

III. About This Report

This report is published to fulfill the annual reporting requirement under section 506B(c) of the FD&C Act. Information in this report covers any PMR/PMC that was made, in writing, at the time of approval or after approval of an application or a supplement to an application (see section I.A) and summarizes the status of PMRs/PMCs in FY2013 (*i.e.,* as of September 30, 2013) and FY2014 (*i.e.,* as of September 30, 2014). The information in this report reflects the PMR/PMC status in CBER's and CDER's databases at the time the data were extracted (September 30 of the fiscal year). Specifically, the report summarizes the status of all open PMRs/PMCs at the end of the fiscal year, and the status of only those PMRs/PMCs that were closed in the fiscal year. If a requirement or commitment did not have a schedule, or an ASR was not received in the previous 12 months, the PMR/PMC is categorized according to the most recent information available to the Agency.[13]

This report reflects combined data from CDER and CBER. Information summarized in the report includes the following: (1) The number of applicants with open PMRs/PMCs [14]; (2) the number of open PMRs/PMCs; (3) the number of applications for which an ASR was expected but was not submitted within 60 days of the anniversary date of U.S. approval or an alternate reporting date that was granted by FDA; (4) FDA-verified status of open PMRs/PMCs reported in 21 CFR 314.81(b)(2)(vii) or 601.70 ASRs; (5) the status of closed PMRs/PMCs; and (6) the distribution of the status by fiscal year of establishment [15] (fiscal year 2008 (FY2008) to FY2014) for PMRs and PMCs that were open at the end of FY2014 or closed within FY2014. The tables in this report distinguish between PMRs and PMCs, PMRs/PMCs for NDAs and BLAs,[16] and on-schedule and off-schedule PMRs/PMCs, according to the original schedule milestones. A more detailed summary of this information and additional information about PMRs/PMCs is provided on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PostmarketingPhaseIVCommitments/default.htm.* In the accompanying supplemental report, information is presented separately for CDER and CBER.

Numbers published in this report and in the accompanying supplemental report on FDA's Web site cannot be compared with the numbers resulting from searches of the publicly accessible and downloadable database. This is because this report incorporates data for all PMRs/PMCs in FDA databases as of the end of the fiscal year, including PMRs/PMCs undergoing review for accuracy. The publicly accessible and downloadable database includes a subset of PMRs/PMCs, specifically those that, at the time of data retrieval, either had an open status or were closed within the past 12 months. In addition, the status information in this report is updated annually while the downloadable database is updated quarterly (*i.e.,* in January, April, July, and October).

IV. Summary of Information on PMR/PMC Status

This report provides information on PMRs/PMCs as of September 30, 2013 (*i.e.,* for FY2013) and September 30, 2014 (*i.e.,* for FY2014). It is important to note that a comparison of the number of open and on-schedule or off-schedule PMRs/PMCs over time can be misleading because it does not take into account that the cohort of open PMRs/PMCs is not static from year to year. New PMRs/PMCs are continually being established for studies and clinical trials with varying start dates and durations; and other PMRs/PMCs are closed because they are either fulfilled or released. Also, ongoing PMRs/PMCs are carried forward into the subsequent fiscal year. Therefore, the number of on- and off-schedule PMRs/PMCs can vary from year to year, and a year-to-year comparison of on- or off-schedule PMRs/PMCs (*e.g.,* to assess for a potential trend) is not appropriate.

Although a comparison of the number of open and on-schedule or off-schedule PMRs/PMCs over time is not appropriate for the aforementioned reasons, a comparison of the data for FY2013 and FY2014 may be helpful in understanding the effect of CDER's 2013 audit. The observed differences are considered to reflect the results of CDER's efforts to update the information on the statuses of PMRs and PMCs following the internal audit of the data for a sample of PMRs/PMCs (see section II.A), as well as the natural progress of postmarketing studies and clinical trials over time. Finally, due to rounding, the percentages in the tables may not add up to 100 percent.

A. Applicants With Open PMRs/PMCs

An applicant may have multiple approved drug products, and an approved drug product may have multiple PMRs and/or PMCs. Table 1 shows that as of September 30, 2013, there were 256 unique applicants with open PMRs/PMCs under 613 unique NDAs and BLAs. There were 184 unique NDA applicants (and 496 associated applications) and 72 unique BLA applicants (and 117 associated applications) with open PMRs/PMCs.

As of September 30, 2014, there were 257 unique applicants with open PMRs/PMCs under 639 unique NDAs and BLAs. There were 181 unique NDA applicants (and 510 associated applications) and 76 unique BLA applicants (and 129 associated applications) with open PMRs/PMCs.

B. Annual Status Reports Received

As previously mentioned, applicants must submit an ASR on the progress of each open PMR/PMC within 60 days of the anniversary date of U.S. approval of the original application or an alternate reporting date that was granted by FDA (21 CFR 314.81 and 21 CFR 601.70).[17] Table 2 shows that there were 530 NDAs and BLAs with an ASR due in FY2013 (429 NDAs and 101 BLAs).[18] Of the NDA ASRs due in that fiscal year, 60 percent (257/429) were received on time, 21 percent (90/429) were not received on time, and 19 percent (82/429) were not received during FY2013. There were 101 BLAs with an ASR due

[13] Although the data included in this report do not include a summary of reports that applicants have failed to file by their due date, the Agency notes that their inclusion or description in this report has no effect on the Agency's ability to take appropriate regulatory action in the event reports are not filed on a timely basis.

[14] At the end of FY2013 and FY2014, there were no PMRs/PMCs for ANDAs that met the reporting requirements under FDAMA. Therefore, this report reflects information for NDAs and BLAs only.

[15] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA required (PMR), or requested (PMC), postmarketing study or clinical trial.

[16] Before July 2014, all BLA PMR/PMC data were maintained in CBER's data system. In July 2014, the data for CDER-managed BLAs were migrated to CDER's data system. Similar to previous reports, this report presents data for CDER and CBER BLAs combined.

[17] An applicant must submit an ASR on the progress of each open PMR/PMC within 60 days of the anniversary date of U.S. approval of the original application or on an alternate reporting date that was granted by FDA in writing. Some applicants have requested and been granted by FDA alternate annual reporting dates to facilitate harmonized reporting across multiple applications.

[18] The number of ASRs that were expected is different from the total number of unique applications with open PMRs/PMCs because not all applications had an ASR due during FY2013/FY2014. Applicants with PMRs/PMCs associated with multiple applications may have submitted the ASR to only one of the applications. In addition, if all of the PMRs/PMCs for an application were established in the preceding fiscal year, or if all PMRs/PMCs for an application were closed before the ASR due date, submission of an ASR would not have been expected.

in FY2013. Of the BLA ASRs due, 69 percent (70/101) were received on time, 20 percent (20/101) were not received on time, and 11 percent (11/101) were not received during FY2013.

There were 569 NDAs and BLAs with an ASR due in FY2014 (454 NDAs and 115 BLAs). Of the 454 NDA ASRs due in that fiscal year, 58 percent (265/454) were received on time, 19 percent (88/454) were not received on time, and 22 percent (101/454) were not received during FY2014. Of the 115 BLA ASRs due, 63 percent (73/115) were received on time, 19 percent (20/115) were not received on time, and 19 percent (22/115) were not received during FY2014.

C. Overview of On- and Off-Schedule Open PMRs/PMCs

Table 3 shows that as of September 30, 2013, most open PMRs (84 percent for NDAs and 89 percent for BLAs) and most open PMCs (77 percent for NDAs and 74 percent for BLAs) were progressing on schedule (*i.e.,* were not delayed or terminated). Similarly, as of September 30, 2014, most open PMRs (87 percent for NDAs and 88 percent for BLAs) and most open PMCs (68 percent for NDAs and 77 percent for BLAs) were progressing on schedule.

D. Open and On-Schedule PMRs

Table 4 shows that as of September 30, 2013, the majority of open NDA PMRs (60 percent; 534/887) and open BLA PMRs (45 percent; 80/179) were pending.[19] This is similar to the findings from fiscal year 2012.[20] As of September 30, 2014, 48 percent (456/943) of open NDA PMRs and 38 percent (74/194) of open BLA PMRs were pending. Table 4 also shows that the proportion of open NDA PMRs that were categorized as ongoing increased from 19 percent (166/887) at the end of FY2013 to 32 percent (303/943) at the end of FY2014.

Table 4 also shows that the proportion of open BLA PMRs that were pending decreased between FY2013 (45 percent; 80/179) and FY2014 (38 percent; 74/194). The proportion of open BLA PMRs that were ongoing did not change substantially between FY2013 (32 percent; 57/179) and FY2014 (35 percent; 68/194).

In addition, table 4 provides detail on the status of open PMRs and PMCs for each category of PMR. The table shows that as of September 30, 2013, 50 percent (305/614) of pending PMRs for drug and biological products were in response to the requirements under PREA. The next largest category of pending PMRs for drug and biological products (47 percent; 286/614) comprises those studies/clinical trials required by FDA under FDAAA. As of September 30, 2014, PREA PMRs and FDAAA PMRs comprised 55 percent (292/530) and 42 percent (222/530) of pending PMRs, respectively.

E. Open and Off-Schedule PMRs

Table 5 provides additional information on the status of open and off-schedule (*i.e.,* delayed and terminated) PMRs. At the end of FY2013, 16 percent (143/887) of the open NDA PMRs and 11 percent (20/179) of the open BLA PMRs were off-schedule. The majority of the off-schedule NDA PMRs (98 percent; 140/143) were delayed; the remaining 2 percent (3/143) were terminated. At the end of that same fiscal year, 10 percent (18/179) of the open BLA PMRs were delayed and 1 percent (2/179) were terminated. Most of the off-schedule BLA PMRs (90 percent; 18/20) were delayed.

As of September 30, 2014, 13 percent (126/943) of the open NDA PMRs were off-schedule. Of the off-schedule NDA PMRs, 94 percent (118/126) were off-schedule because they were delayed and the remaining 6 percent (8/126) were terminated. At the end of FY2014, 12 percent (24/194) of the open BLA PMRs were off-schedule. The majority of the off-schedule BLA PMRs (88 percent; 21/24) were off-schedule because they were delayed; the remaining 2 percent (3/194) were terminated.

In certain situations, the original PMR schedules were adjusted for unanticipated delays in the progress of the study or clinical trial (*e.g.,* difficulties with subject enrollment in a clinical trial for a marketed drug or need for additional time to analyze results). In this report, study or clinical trial status reflects the status in relation to the original [21] study or clinical trial schedule regardless of whether FDA has acknowledged that additional time was required to complete the study or clinical trial.

F. Open On-Schedule and Off-Schedule PMCs

Table 6 provides the status of open on-schedule and off-schedule PMCs. As shown in the table, pending NDA PMCs comprised the largest category of all open NDA PMCs as of September 30, 2013 (37 percent; 97/264), and September 30, 2014 (29 percent; 61/207). Among all open BLA PMCs, 35 percent (88/251) and 30 percent (69/228) were pending at the end of FY2013 and FY2014, respectively.

As of September 30, 2013, the largest category of off-schedule PMCs were delayed according to the original schedule milestones.[22] Similarly, as of September 30, 2014, the majority of off-schedule NDA and BLA PMCs were delayed according to the original schedule milestones.[23]

G. Closed PMRs and PMCs

Table 7 provides details about PMRs and PMCs that were closed (released or fulfilled) within FY2013 and FY2014. The majority of closed PMRs were fulfilled (53 percent of NDA PMRs and 88 percent of BLA PMRs at the end of FY2013; 72 percent of NDA PMRs and 77 percent of BLA PMRs at the end of FY2014). Similarly, the majority of PMCs closed within FY2013 and FY2014 were fulfilled.

H. Distribution of the Status of PMRs and PMCs

Tables 8 and 9 show the distribution of the statuses of PMRs/PMCs as of September 30, 2014, of all PMRs and PMCs, presented by the year that the PMR/PMC was established (FY2008 to FY2014).[24] Note that the data shown for closed (fulfilled or released) PMRs/PMCs is for all PMRs/PMCs that were closed as of FY2014. Therefore, data for PMRs/PMCs that were closed in prior fiscal years are included. Based on the data shown in table 8, an average of 243 PMRs were established each year since fiscal year 2009.[25] [26] Most PMRs that were established in the earlier years

[19] It is important to note that PMRs/PMCs that are in pending status are not yet delayed; that is, per the milestones, the studies/clinical trials are indeed on schedule and are not expected to be underway yet.

[20] As of September 30, 2012, 58 percent of open NDA PMRs and 46 percent of open BLA PMRs were pending (79 FR 9230, February 18, 2014).

[21] With the exception of PREA PMRs for which a deferral extension of the final report submission date has been granted.

[22] As of September 30, 2013, off-schedule PMCs accounted for 23 percent (61/264) of open NDA PMCs and 26 percent (65/251) of open BLA PMCs.

[23] As of September 30, 2014, off-schedule PMCs accounted for 32 percent (66/207) of open NDA PMCs and 23 percent (53/228) of open BLA PMCs.

[24] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA required (PMR) or requested (PMC) postmarketing study or clinical trial.

[25] The number of PMRs issued at any particular period is determined by a variety of factors including but not necessarily limited to: (1) The number of NDAs approved in that period; (2) whether additional efficacy or clinical benefit issues were evaluated; (3) if any drug-associated serious risk(s) have been identified; and (4) whether or not FDA determines that a postmarketing study or clinical trial is necessary to further assess risk(s) or efficacy issues.

[26] Data for FY2008 were not included in the calculation of the average number of PMRs established each year because, given that FDAAA took effect on March 25, 2008, data are only available for a partial fiscal year.

were either fulfilled or released. For example, as of September 30, 2014, 45 percent (57/128) of the PMRs that were established in FY2008 were fulfilled, and 22 percent (28/128) were released. The majority of PMRs that were established in more recent years were either pending (*i.e.,* not yet underway) or ongoing (*i.e.,* still in progress and on schedule). For example, as of September 30, 2014, 87 percent (226/260) of the PMRs established in FY2014 were pending, and 9 percent (23/260) were ongoing. Overall, of the PMRs that were pending as of September 30, 2014, 81 percent (414/512) were created within the past 3 years. Finally, table 8 shows that, on average, 7 percent of the PMRs established since FY2008 were delayed (as of September 30, 2014). Table 9 provides an overview of PMCs in a similar manner as table 8 does for PMRs and shows similar results for PMCs as those for PMRs as described above and in table 8.

TABLE 1—APPLICANTS AND APPLICATIONS (NDA/BLA) WITH OPEN POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2013, and September 30, 2014]

FY 2013	NDA [1]	BLA [2]	Total (NDA and BLA)
Number of unique applicants with open PMRs/PMCs	184	72	256
Number of applications with open PMRs/PMCs	496	117	613
FY 2014	NDA [1]	BLA [2]	Total (NDA and BLA)
Number of unique applicants with open PMRs/PMCs	181	76	257
Number of applications with open PMRs/PMCs	510	129	639

[1] Includes two NDAs with associated PMRs/PMCs managed by CBER.
[2] Includes BLAs managed by both CDER and CBER.

TABLE 2—ANNUAL STATUS REPORTS RECEIVED

[Numbers as of September 30, 2013, and September 30, 2014] [1]

	Expected [2]	Received, on time [3] (% of expected)	Received, not on time [4] (% of expected)	Expected but not received (% of expected)
FY 2013:				
NDA	429	257 (60%)	90 (21%)	82 (19%)
BLA	101	70 (69%)	20 (20%)	11 (11%)
FY 2014:				
NDA	454	265 (58%)	88 (19%)	101 (22%)
BLA	115	73 (63%)	20 (19%)	22 (19%)

[1] Percentages may not total 100 due to rounding.
[2] ASR expected during fiscal year (within 60 days (before or after) of the anniversary of original approval date or alternate agreed-upon date).
[3] ASR was received within 60 days (before or after) of the anniversary of the original approval date or alternate agreed-upon date.
[4] ASR was received, but not within 60 days (before or after) of the anniversary of the original approval date or alternate agreed-upon date.

TABLE 3—SUMMARY OF ON- AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2013, and September 30, 2014] [1]

FY 2013	Open PMRs N = 1,066		Open PMCs N = 515	
	NDA (% of Open NDA PMRs)	BLA (% of Open BLA PMRs)	NDA (% of Open NDA PMCs)	BLA (% of Open BLA PMCs)
On-schedule	744 (84%)	159 (89%)	203 (77%)	186 (74%)
Off-schedule	143 (16%)	20 (11%)	61 (23%)	65 (26%)
Total	887	179	264	251
FY 2014	Open PMRs N = 1,137		Open PMCs N = 435	
	NDA (% of Open NDA PMRs)	BLA (% of Open BLA PMRs)	NDA (% of Open NDA PMCs)	BLA (% of Open BLA PMCs)
On-schedule	817 (87%)	170 (88%)	141 (68%)	175 (77%)
Off-schedule	126 (13%)	24 (12%)	66 (32%)	53 (23%)
Total	943	194	207	228

[1] Percentages may not total 100 due to rounding.

TABLE 4—SUMMARY OF OPEN AND ON-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2013, and September 30, 2014] [1]

FY 2013	NDA N = 887 (% of Total open NDA PMRs)			BLA N = 179 (% of Total open BLA PMRs)		
Reporting authority/PMR status	Pending	Ongoing	Submitted	Pending	Ongoing	Submitted
Accelerated approval	17 (2%)	12 (1%)	1 (<1%)	1 (<1%)	8 (4%)	0
PREA [2]	272 (31%)	65 (7%)	10 (1%)	33 (18%)	13 (7%)	4 (2%)
Animal efficacy [3]	2 (<1%)	0	0	3 (2%)	0	0
FDAAA safety (since March 25, 2008)	[4] 243 (27%)	89 (10%)	[5] 33 (4%)	43 (24%)	36 (20%)	18 (10%)
Total	534 (60%)	166 (19%)	44 (5%)	80 (45%)	57 (32%)	22 (12%)
FY 2014	NDA N = 943 (% of Total open NDA PMRs)			BLA N = 194 (% of Total open BLA PMRs)		
Reporting authority/PMR status	Pending	Ongoing	Submitted	Pending	Ongoing	Submitted
Accelerated approval	8 (<1%)	26 (3%)	0	3 (2%)	4 (2%)	2 (1%)
PREA	253 (27%)	136 (14%)	27 (3%)	39 (20%)	20 (10%)	8 (4%)
Animal efficacy	2 (<1%)	0	1 (<1%)	3 (2%)	0	0
FDAAA safety (since March 25, 2008)	[6] 193 (20%)	141 (15%)	30 (3%)	29 (15%)	44 (23%)	18 (9%)
Total	456 (48%)	303 (32%)	58 (6%)	74 (38%)	68 (35%)	28 (14%)

[1] Percentages may not total 100 due to rounding.

[2] Many PREA studies have a pending status. PREA studies are usually deferred because the drug product is ready for approval in adults. Initiation of these studies may be deferred until additional safety information from other studies has first been submitted and reviewed before beginning the studies in pediatric populations.

[3] PMRs for drug products approved under the animal efficacy rule (21 CFR 314.600 for drugs; 21 CFR 601.90 for biological products) can be conducted only when the drug product is used for its indication and when an exigency (or event or need) arises. In the absence of a public health emergency, these studies or clinical trials will remain pending indefinitely.

[4] Includes one NDA PMR FDAAA safety study from CBER in pending status.

[5] Includes one NDA PMR FDAAA safety study from CBER in submitted status.

[6] Includes one NDA PMR FDAAA safety study from CBER in pending status.

TABLE 5—SUMMARY OF OPEN AND OFF-SCHEDULE POSTMARKETING REQUIREMENTS

[Numbers as of September 30, 2013, and September 30, 2014] [1]

FY2013	NDA N = 887 (% of Open NDA PMRs)		BLA N = 179 (% of Open BLA PMRs)	
Reporting authority/PMR status	Delayed	Terminated	Delayed	Terminated
Accelerated approval	7 (0.8%)	1 (0.1%)	1 (0.6%)	0
PREA	94 (11%)	2 (0.2%)	6 (3%)	2 (1%)
Animal efficacy	1 (0.1%)	0	0	0
FDAAA safety (since March 25, 2008)	38 (4%)	0	11 (6%)	0
Total	140 (16%)	3 (0.3%)	18 (10%)	2 (1%)
FY 2014	NDA N = 943 (% of Open NDA PMRs)		BLA N = 194 (% of Open BLA PMRs)	
Reporting authority/PMR status	Delayed	Terminated	Delayed	Terminated
Accelerated approval	6 (0.6%)	2 (0.2%)	2 (1%)	0
PREA	67 (7%)	2 (0.2%)	5 (3%)	3 (2%)
Animal efficacy	0	0	0	0
FDAAA safety (since March 25, 2008)	45 (5%)	4 (0.4%)	14 (7%)	0
Total	118 (13%)	8 (0.8%)	21 (11%)	3 (2%)

[1] Percentages may not total 100 due to rounding.

TABLE 6—SUMMARY OF OPEN POSTMARKETING COMMITMENTS

[Numbers as of September 30, 2013, and September 30, 2014] [1]

	FY 2013		FY 2014	
	NDA N = 264 (% Open PMCs)	BLA N = 251 (% Open PMCs)	NDA N = 207 (% Open PMCs)	BLA N = 228 (% Open PMCs)
On-Schedule:				
Pending	97 (37%)	88 (35%)	61 (29%)	69 (30%)
Ongoing	61 (23%)	61 (24%)	49 (24%)	76 (33%)
Submitted	45 (17%)	37 (15%)	31 (15%)	30 (13%)
Total	203 (77%)	186 (74%)	141 (68%)	175 (77%)
Off-Schedule:				
Delayed	56 (21%)	63 (25%)	63 (30%)	51 (22%)
Terminated	5 (2%)	2 (0.8%)	3 (1%)	2 (1%)
Total	61 (23%)	65 (26%)	66 (32%)	53 (23%)

[1] Percentages may not total 100 due to rounding.

TABLE 7—SUMMARY OF CLOSED [1] POSTMARKETING REQUIREMENTS AND COMMITMENTS

[Numbers as of September 30, 2013, and September 30, 2014] [2]

Postmarketing requirements	FY 2013		FY 2014	
	NDA N = 134	BLA N = 17	NDA N = 188	BLA N = 30
Closed PMRs (% of Total Closed PMRs):				
Requirement met (fulfilled)	71 (53%)	15 (88%)	136 (72%)	23 (77%)
Requirement not met (released and new revised requirement issued)	27 (20%)	1 (6%)	14 (7%)	3 (10%)
Requirement no longer feasible or drug product withdrawn (released)	36 (27%)	1 (6%)	38 (20%)	4 (13%)
Postmarketing commitments	**FY 2013**		**FY 2014**	
	NDA N = 53	BLA N = 33	NDA N = 96	BLA N = 70
Closed PMCs (% of Total Closed PMCs):				
Requirement met (fulfilled)	42 (79%)	28 (85%)	84 (88%)	57 (81%)
Requirement not met (released and new revised requirement issued)	0	0	0	2 (3%)
Requirement no longer feasible or drug product withdrawn (released)	11 (21%)	5 (15%)	12 (13%)	11 (16%)

[1] The table shows data for only those PMRs/PMCs that were closed (fulfilled or released) within the fiscal year. Therefore, data for PMRs/PMCs that were closed in prior fiscal years are *not* included.

[2] Percentages may not total 100 due to rounding.

TABLE 8—SUMMARY OF STATUS OF POSTMARKETING REQUIREMENTS ESTABLISHED BETWEEN FY 2008 AND FY 2014 [1] [2]

[Numbers as of September 30, 2014] [3]

PMR status as of FY 2014 (% of total PMRs in each establishment year)	Fiscal year of PMR establishment						
	2008	2009	2010	2011	2012	2013	2014
Pending	11 (9%)	15 (6%)	29 (13%)	43 (17%)	60 (29%)	128 (49%)	226 (87%)
Ongoing	20 (16%)	51 (20%)	49 (21%)	74 (29%)	58 (28%)	62 (24%)	23 (9%)
Submitted	1 (<1%)	11 (5%)	21 (9%)	8 (3%)	15 (7%)	19 (7%)	1 (<1%)
Delayed	11 (9%)	26 (11%)	18 (8%)	19 (7%)	18 (9%)	19 (7%)	0
Terminated	0	2 (<1%)	0	0	1 (<1%)	3 (1%)	1 (<1%)
Released	28 (22%)	51 (21%)	22 (10%)	43 (17%)	20 (10%)	8 (3%)	1 (<1%)
Fulfilled	57 (45%)	88 (36%)	92 (40%)	72 (28%)	33 (16%)	23 (9%)	8 (3%)
Total	128	244	231	259	205	262	260

[1] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA required (PMR) or requested (PMC) postmarketing study or clinical trial.

[2] The table shows data for PMRs that were closed (fulfilled or released) *as of* FY2014. Therefore, data for PMRs that were closed in prior fiscal years are included.

[3] Percentages may not total 100 due to rounding.

TABLE 9—SUMMARY OF STATUS OF POSTMARKETING COMMITMENTS ESTABLISHED BETWEEN FY 2008 AND FY 2014 [1] [2]

[Numbers as of September 30, 2014] [3]

PMC status as of FY2014 (% of total PMCs in each establishment year)	Fiscal year of PMC establishment						
	2008	2009	2010	2011	2012	2013	2014
Pending	1 (1%)	4 (9%)	3 (3%)	11 (13%)	12 (23%)	22 (45%)	47 (82%)
Ongoing	11 (9%)	5 (11%)	16 (18%)	25 (30%)	16 (30%)	14 (29%)	9 (16%)
Submitted	1 (1%)	6 (13%)	9 (10%)	2 (2%)	5 (9%)	6 (12%)	0
Delayed	8 (7%)	8 (17%)	16 (18%)	8 (10%)	6 (11%)	3 (6%)	0
Terminated	0	1 (2%)	0	0	0	0	0
Released	12 (10%)	3 (6%)	6 (7%)	7 (9%)	0	0	0
Fulfilled	86 (72%)	20 (43%)	40 (44%)	29 (35%)	14 (26%)	4 (8%)	1 (2%)
Total	119	47	90	82	53	49	57

[1] The establishment date is the date of the formal FDA communication to the applicant that included the final FDA required (PMR) or requested (PMC) postmarketing study or clinical trial.

[2] The table shows data for PMCs that were closed (fulfilled or released) *as of* FY2014. Therefore, data for PMCs that were closed in prior fiscal years are included.

[3] Percentages may not total 100 due to rounding.

Dated: October 25, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–26247 Filed 10–28–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0435]

Labeling for Permanent Hysteroscopically Placed Tubal Implants Intended for Sterilization; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization.'' This guidance addresses the inclusion of a boxed warning and patient decision checklist in the product labeling for permanent hysteroscopically placed tubal implants intended for female sterilization, and the content and format of those materials. FDA believes that the labeling described in this guidance will help to ensure that a woman receives and understands information regarding the benefits and risks of this type of device prior to undergoing implantation. FDA considered comments received on the draft guidance and revised the guidance as appropriate.

The guidance identifies the content and format of certain labeling components for permanent, hysteroscopically placed tubal implants that are intended for sterilization. The guidance applies to all devices of this type, regardless of the insert material composition, location of intended implantation, or exact method of delivery.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0435 for ''Labeling for Permanent Hysteroscopically-Placed Tubal Implants Intended for Sterilization, Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS