Proposed ADUFA III Provisions of the Federal Food, Drug, and Cosmetic Act

SEC. 739. DEFINITIONS.

For purposes of this part:

(1) The term ‘animal drug application’ means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

(2) The term ‘supplemental animal drug application’ means—

(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

(3) The term ‘animal drug product’ means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

(4) The term ‘animal drug establishment’ means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

(5) The term ‘investigational animal drug submission’ means—

(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

(6) The term ‘animal drug sponsor’ means either an applicant named in an animal drug application that has not been withdrawn by the applicant and for which approval has not

been withdrawn by the Secretary , or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

(7) The term ‘final dosage form’ means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

(8) The term ‘process for the review of animal drug applications’ means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary’s review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

(F) Development of standards for products subject to review.

(G) Meetings between the agency and the animal drug sponsor.

(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not after such application has been approved.

(9) The term ‘costs of resources allocated for the process for the review of animal drug applications’ means the expenses in connection with the process for the review of animal drug applications for—

(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

(B) management of information, and the acquisition, maintenance, and repair of computer resources,

(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

(D) collecting fees under section 740 and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

(10) The term ‘adjustment factor’ applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator month being October 2002.

(11) The term ‘person’ includes an affiliate thereof.

(12) The term ‘affiliate’ refers to the definition set forth in section 735(11).

SEC. 740. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.

(a) TYPES OF FEES.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

(A) IN GENERAL.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

(i) A fee established in subsection (c) for an animal drug application, except an animal drug application subject to the criteria set forth in section 512(d)(4); and

(ii) A fee established in subsection (c), in an amount that is equal to 50 percent of the amount of the fee under clause (i), for—

(I) a supplemental animal drug application for which safety or effectiveness data are required; and

(II) an animal drug application subject to the criteria set forth in section 512(d)(4).

(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph (B) if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

(2) ANIMAL DRUG PRODUCT FEE.—

(A) IN GENERAL.—Each person—(i) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and (ii) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application, shall pay for each such animal drug product the annual fee established in subsection (c).

(B) PAYMENT; FEE DUE DATE.—Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for

that fiscal year, such fee shall be due each subsequent fiscal year that the product remains listed, upon the later of—

(i) the first business day after the date of enactment of an appropriations Act providing for the collection and obligation of fees for such fiscal year under this section; or

(ii) January 31 of each year.

(C) LIMITATION.—Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

(3) ANIMAL DRUG ESTABLISHMENT FEE.—

(A) IN GENERAL.—Each person—

(i) who owns or operates, directly or through an affiliate, an animal drug establishment;

(ii) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510; and

(iii) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual establishment fee as established in subsection (c) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application.

(B) PAYMENT; FEE DUE DATE.—The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee under this paragraph for a fiscal year shall be due upon the later of—

(i) the first business day after the date of enactment of an appropriations Act providing for the collection and obligation of fees for such fiscal year under this section; or

(ii) January 31 of each year.

(C) LIMITATION.—(i) The establishment shall be assessed only one fee per fiscal year under this section, subject to clause (ii).

(ii) Where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

(4) ANIMAL DRUG SPONSOR FEE.—

(A) IN GENERAL.—Each person— (i) who meets the definition of an animal drug sponsor within a fiscal year; and (ii) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission, shall be assessed an annual sponsor fee as established under subsection (c).

(B) PAYMENT; FEE DUE DATE.—The fee under this paragraph for a fiscal year shall be due upon the later of—

(i) the first business day after the date of enactment of an appropriations Act providing for the collection and obligation of fees for such fiscal year under this section; or

(ii) January 31 of each year.

(C) LIMITATION.—Each animal drug sponsor shall pay only one such fee each fiscal year.

(b) FEE REVENUE AMOUNTS.—

(1) IN GENERAL.—Subject to subsections (c), (d), (f), and (g)—

(A) For fiscal year 2014, the fees required under subsection (a) shall be established to generate a total revenue amount of $23,600,000.

(B) For each of fiscal years 2015 through 2018, the fees required under subsection (a) shall be established to generate a total revenue amount of $21,600,000.

(2) TYPES OF FEES.—Of the total revenue amount determined for a fiscal year under paragraph (1)—

(A) 20 percent shall be derived from fees under subsection (a)(1) (relating to animal drug applications and supplements);

(B) 27 percent shall be derived from fees under subsection (a)(2) (relating to animal drug products);
(C) 26 percent shall be derived from fees under subsection (a)(3) (relating to animal drug establishments); and
(D) 27 percent shall be derived from fees under subsection (a)(4) (relating to animal drug sponsors).

(c) ANNUAL FEE SETTING; ADJUSTMENTS.—

(1) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year beginning after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.

(2) INFLATION ADJUSTMENT.—For fiscal year 2015 and subsequent fiscal years, the revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year, by an amount equal to the sum of –

(A) one;

(B) the average annual percent change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 3 of the preceding 4 fiscal years for which data are available, multiplied by the average proportion of personnel compensation and benefits costs to total Food and Drug Administration costs for the first 3 years of the preceding 4 fiscal years for which data are available; and

(C) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; not seasonally adjusted; all items less food and energy; annual index) for the first 3 years of the preceding 4 years for which data are available multiplied by the average proportion of all costs other than personnel compensation and benefits costs to total Food and Drug Administration costs for the first 3 years of the preceding 4 fiscal years for which data are available.

The adjustment made each fiscal year under this paragraph shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2014 under this paragraph.

(3) WORKLOAD ADJUSTMENT.—For fiscal year 2015 and subsequent fiscal years, after the fee revenues established in subsection (b) are adjusted for inflation

in accordance with paragraph (2), the fee revenues shall be further adjusted for such fiscal year to reflect changes in the workload of the Secretary for the process for the review of animal drug applications. With respect to such adjustment:

(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (b), as adjusted for inflation under paragraph (2).

(4) FINAL YEAR ADJUSTMENT.—For fiscal year 2018, the Secretary may, in addition to other adjustments under this subsection, further increase the fees under this section, if such an adjustment is necessary, to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal year 2019. If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2018.

(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

(d) FEE WAIVER OR REDUCTION.—

(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that—

(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

(3) RULES FOR SMALL BUSINESSES.—

(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(E) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

(e) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 739(5)(B) that is submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

(f) ASSESSMENT OF FEES.—

(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, animal drug sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

(g) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Subject to paragraph (2)(C), fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

(2) COLLECTIONS AND APPROPRIATION ACTS.—

(A) IN GENERAL.—The fees authorized by this section—

(i) subject to subparagraph (C), shall be collected and available in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

(ii) shall be available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

(C) PROVISION FOR EARLY PAYMENTS.—Payment of fees authorized under this section for a fiscal year, prior to the due date for such fees, may be accepted by the Secretary in accordance with authority provided in advance in a prior year appropriations Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2014 through 2018, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under subsection (c) and paragraph (4).

(4) OFFSET OF OVERCOLLECTIONS; RECOVERY OF COLLECTION SHORTFALLS.—

(A) OFFSET OF OVERCOLLECTIONS.—If the sum of the cumulative amount of fees collected under this section for fiscal years 2014 through 2016 and the amount of fees estimated to be collected under this section for fiscal year 2017 (including any increased fee collections attributable to subparagraph (B)), exceeds the cumulative amount appropriated pursuant to paragraph (3) for the fiscal years 2014 through 2017, the excess amount shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for fiscal year 2018.

(B) RECOVERY OF COLLECTION SHORTFALLS.–

(i) For fiscal year 2016, the amount of fees otherwise authorized to be collected under this section shall be increased by the amount, if any, by which the amount collected under this section and appropriated for fiscal year 2014 falls below the amount of fees authorized for fiscal year 2014 under paragraph (3).

(ii) For fiscal year 2017, the amount of fees otherwise authorized to be collected under this section shall be increased by the amount, if any, by which the amount collected under this section and appropriated for fiscal year 2015 falls below the amount of fees authorized for fiscal year 2015 under paragraph (3).

(iii) For fiscal year 2018, the amount of fees otherwise authorized to be collected under this section (including any reduction in the authorized amount under subparagraph (A)), shall be increased by the cumulative amount, if any, by which the amount collected under this section and appropriated for fiscal years 2016 and 2017 (including estimated collections for fiscal year 2017) falls below the cumulative amount of fees authorized under paragraph (3) for fiscal years 2016 and 2017.

(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

(j) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for

officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

(k) ABBREVIATED NEW ANIMAL DRUG APPLICATIONS.—The Secretary shall—

(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.

SEC. 740A. REAUTHORIZATION; REPORTING REQUIREMENTS.

(a) PERFORMANCE REPORT.—Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section ***[xxx]*** of the Animal Drug User Fee Amendments of 2013 toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(b) FISCAL REPORT.—Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year during which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the Internet Web site of the Food and Drug Administration.

(d) REAUTHORIZATION.—

(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals, and plans for meeting the goals, for the

process for the review of animal drug applications for the first 5 fiscal years after fiscal year 2018, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

(A) the Committee on Energy and Commerce of the House of Representatives;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) scientific and academic experts;

(D) veterinary professionals;

(E) representatives of patient and consumer advocacy groups; and

(F) the regulated industry.

(2) PRIOR PUBLIC INPUT.—Prior to beginning negotiations with the regulated industry on the reauthorization of this part, the Secretary shall—

(A) publish a notice in the Federal Register requesting public input on the reauthorization;

(B) hold a public meeting at which the public may present its views on the reauthorization, including specific suggestions for changes to the goals referred to in subsection (a);

(C) provide a period of 30 days after the public meeting to obtain written comments from the public suggesting changes to this part; and

(D) publish the comments on the Food and Drug Administration's Internet Web site.

(3) PERIODIC CONSULTATION.—Not less frequently than once every 4 months during negotiations with the regulated industry, the Secretary shall hold discussions with representatives of veterinary, patient, and consumer advocacy groups to continue discussions of their views on the reauthorization and their suggestions for changes to this part as expressed under paragraph (2).

(4) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

(A) present the recommendations developed under paragraph (1) to the Congressional committees specified in such paragraph;

(B) publish such recommendations in the Federal Register;

(C) provide for a period of 30 days for the public to provide written comments on such recommendations;

(D) hold a meeting at which the public may present its views on such recommendations; and

(E) after consideration of such public views and comments, revise such recommendations as necessary.

(5) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2018, the Secretary shall transmit to the Congress the revised recommendations under paragraph (4) a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.

(6) MINUTES OF NEGOTIATION MEETINGS.—

(A) PUBLIC AVAILABILITY.—Before presenting the recommendations developed under paragraphs (1) through (5) to the Congress, the Secretary shall make publicly available, on the Internet Web site of the Food and Drug Administration, minutes of all negotiation meetings conducted under this subsection between the Food and Drug Administration and the regulated industry.

(B) CONTENT.—The minutes described under subparagraph (A) shall summarize any substantive proposal made by any party to the negotiations as well as significant controversies or differences of opinion during the negotiations and their resolution.

ADUFA III provisions <u>not</u> amending the Federal Food, Drug, and Cosmetic Act

SEC. ***[xxx].*** SAVINGS CLAUSE.

Notwithstanding section 108 of the Animal Drug User Fee Amendments of 2008 (21 U.S.C. 379j–11 note), and notwithstanding the amendments made by this Act, part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j–11 et seq.), as in effect on the day before the date of the enactment of this Act, shall continue to be in effect with respect to animal drug applications and supplemental animal drug applications (as defined in such part as of such day) that on or after October 1, 2008, but before October 1, 2013, were accepted by the Food and Drug Administration for filing with respect to assessing and collecting any fee required by such part for a fiscal year prior to fiscal year 2014.

SEC. *[xxx]*. EFFECTIVE DATE.

The amendments made by sections ***[xxx]***, ***[xxx]***, and ***[xxx]*** shall take effect on October 1, 2013, and fees under part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall be assessed for all animal drug applications and supplemental animal drug applications received on or after such date, regardless of the date of the enactment of this Act.

SEC. *[xxx]*. SUNSET DATES.

(a) AUTHORIZATION.—Section 740 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j-12) shall cease to be effective October 1, 2018.

(b) REPORTING REQUIREMENTS.—Section 740A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j-13) shall cease to be effective January 31, 2019.

(c) PREVIOUS SUNSET PROVISION.–

(1) IN GENERAL.–Section 108 of the Animal Drug User Fee Amendments of 2008 (Public Law 110-316) is repealed.

(2) CONFORMING AMENDMENT.–Public Law 110-316 is amended in the table of contents in section 1, by striking the item relating to section 108.

(d) TECHNICAL CLARIFICATION–Effective November 18, 2003, section 5 of the Animal Drug User Fee Act of 2003 (Public Law 108-130) is repealed.