At the option of the person requesting an informal conference, such written response to FDA’s initial decision may act in lieu of a face-to-face meeting. In this case, the informal conference will consist of a review by the presiding officer of the submitted written response.

(f) The purpose of an informal conference is to discuss scientific and factual issues. It will involve a discussion of FDA’s initial decision and any written response to that decision.

(g) Internal agency review of a decision must be based on the information in the administrative file. If the person requesting an informal conference presents new information not in the file, the matter will be returned to the appropriate lower level in the agency for reevaluation based on the new information.

(h) Informal conferences under this part are not subject to the separation of functions rules in §10.55 of this chapter.

(i) The rules of evidence do not apply to informal conferences. No motions or objections relating to the admissibility of information and views will be made or considered, but any party to the conference may comment upon or rebut all such data, information and views.

(j) [Reserved]

(k) The presiding officer will prepare a written report regarding the subject of the informal conference that states and describes the basis for his or her findings. Whenever time permits, the parties to the informal conference will have 30 days to review and comment on the report.

(l) The administrative record of the informal conference will consist of:

1. The notice providing an opportunity for an informal conference and the written response to the notice.

2. All written information and views submitted to the presiding officer at the conference or, at the discretion of the presiding officer, thereafter.

3. The presiding officer’s written report.

4. All correspondence and memoranda of any and all meetings between the participants and the presiding officer.

(m) The administrative record of the informal conference is closed to the submission of information at the close of the conference, unless the presiding officer specifically permits additional time for further submission.

(n) The administrative record of the informal conference specified herein constitutes the exclusive record for decision.

§516.125 Investigational use of minor species new animal drugs to support indexing.

(a) The investigational use of a new animal drug or animal feed bearing or containing a new animal drug intended solely for investigational use in minor species shall meet the requirements of part 511 of this chapter if the investigational use is for the purpose of:

1. Demonstrating human food safety under section 572(a)(1)(B) of the act;

2. Demonstrating safety with respect to individuals exposed to the new animal drug through its manufacture and use under section 572(c)(1)(F) of the act;

3. Conducting an environmental assessment under section 572(c)(1)(E) of the act;

4. Obtaining approval of a new animal drug application or abbreviated new animal drug application under section 512(b) of the act.

(b) Correspondence and information associated with investigations described in paragraph (a) of this section shall not be sent to the Director, OMUMS, but shall be submitted to FDA in accordance with the provisions of part 511 of this chapter.

(c) The investigational use of a new animal drug or animal feed bearing or containing a new animal drug intended other than for investigational use in minor species, other than for an investigational use described in paragraph (a) of this section, shall meet the requirements of this section. For such investigations, all provisions of part 511 of this chapter apply with the following modifications:

1. Under §511.1(a)(1) of this chapter, the label statement is as follows: “Caution. Contains a new animal drug for investigational use only in laboratory animals or for tests in vitro in support of index listing. Not for use in humans.”
(2) Under §511.1(b)(1) of this chapter, the label statement is as follows:

"Caution. Contains a new animal drug for use only in investigational animals in clinical trials in support of index listing. Not for use in humans. Edible products of investigational animals are not to be used for food for humans or other animals unless authorization has been granted by the U.S. Food and Drug Administration or by the U.S. Department of Agriculture."

(3) Under §511.1(b)(4) of this chapter, the notice is titled "Notice of Claimed Investigational Exemption for a New Animal Drug for Index Listing" and is submitted in duplicate to the Director, OMUMS.

(4) Under §511.1(c)(3) of this chapter, if an investigator is determined to be ineligible to receive new animal drugs, each "Notice of Claimed Investigational Exemption for a New Animal Drug for Index Listing" and each request for indexing shall be examined with respect to the reliability of information submitted by the investigator.

(5) Under §511.1(c)(4) and (d)(2) of this chapter, with respect to termination of exemptions, the sponsor of an investigation shall not be granted an opportunity for a regulatory hearing before FDA pursuant to part 16 of this chapter. Instead, the sponsor shall have an opportunity for an informal conference as described in §516.123.

(6) Under §511.1(c)(5) of this chapter, if the Commissioner of Food and Drugs determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are such that a request for addition to the index would have been denied, FDA will remove the new animal drug from the index in accordance with §516.167.

(d) The investigational use of a new animal drug or animal feed bearing or containing a new animal drug subject to paragraph (c) of this section shall not be subject to the good laboratory practice requirements in part 58 of this chapter.

(e) Correspondence and information associated with investigations described in paragraph (c) of this section shall be sent to the Director, OMUMS, in accordance with the provisions of this section.

§516.129 Content and format of a request for determination of eligibility for indexing.

(a) Each request for determination of eligibility:

(1) May involve only one drug (or one combination of drugs) in one dosage form;

(2) May not involve a new animal drug that is contained in or a product of a transgenic animal;

(3) May not involve the same drug in the same dosage form for the same intended use as a drug that is already approved or conditionally approved; and

(4) Must be submitted separately.

(b) A request for determination of eligibility for indexing may involve multiple intended uses and/or multiple minor species. However, if a request for determination of eligibility for indexing that contains multiple intended uses and/or multiple minor species cannot be granted in any part, the entire request will be denied.

(c) A requestor must submit two copies of a dated request signed by the authorized contact person for determination of eligibility for indexing that contains the following:

(1) Identification of the minor species or groups of minor species for which the new animal drug is intended;

(2) Information regarding drug components and composition;

(3) A statement of the intended use(s) of the new animal drug in the identified minor species or groups of minor species;

(4) A statement of the proposed conditions of use associated with the stated intended use(s) of the new animal drug, including the proposed dosage, route of administration, contraindications, warnings, and any other significant limitations associated with the intended use(s) of the new animal drug;

(5) A brief discussion of the need for the new animal drug for the intended use(s);

(6) An estimate of the anticipated annual distribution of the new animal drug, in terms of the total quantity of active ingredient, after indexing;

(7) Information to establish that the new animal drug is intended for use:

(i) In a minor species for which there is a reasonable certainty that the animal or edible products from the animal