

§516.149

§516.149 Denying a request for addition to the index.

(a) FDA will deny a request for addition to the index if it finds the following:

(1) The same drug in the same dosage form for the same intended use is already approved or conditionally approved;

(2) On the basis of new information, the new animal drug no longer meets the conditions for eligibility for indexing;

(3) The request for indexing fails to contain information required under the provisions of §516.145;

(4) The qualified expert panel fails to meet any of the selection criteria listed in §516.141(b);

(5) The written report of the qualified expert panel and other information available to FDA is insufficient to permit FDA to determine that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question;

(6) On the basis of the report of the qualified expert panel and other information available to FDA, the benefits of using the new animal drug for the proposed use in a minor species do not outweigh its risks to the target animal, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question; or

(7) The request contains any untrue statement of a material fact or omits material information.

(b) When a request for addition to the index is denied, FDA will notify the requestor in accordance with §516.153.

§516.151 Granting a request for addition to the index.

(a) FDA will grant the request for addition of a new animal drug to the index if none of the reasons described in §516.149 for denying such a request applies.

(b) When a request for addition of a new animal drug to the index is granted, FDA will notify the requestor in accordance with §516.153.

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§516.153 Notification of decision regarding index listing.

(a) Within 180 days after the filing of a request for addition of a new animal drug to the index, FDA shall grant or deny the request and notify the requestor of FDA's decision in writing.

(b) If FDA denies the request for addition of a new animal drug to the index, FDA shall provide due notice and an opportunity for an informal conference as described in §516.123. A decision of FDA to deny a request to index a new animal drug following an informal conference shall constitute final agency action subject to judicial review.

§516.155 Labeling of indexed drugs.

(a) The labeling of an indexed drug that is found to be eligible for indexing under §516.129(c)(7)(i) shall state, prominently and conspicuously: “*NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.*” “*This product is not to be used in animals intended for use as food for humans or other animals.*”

(b) The labeling of an indexed drug that was found to be eligible for indexing for use in an early, non-food life stage of a food-producing minor species animal, under §516.129(c)(7)(ii), shall state, prominently and conspicuously: “*NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.*”

(c) The labeling of an indexed drug shall contain such other information as may be prescribed in the index listing.

§516.157 Publication of the index and content of an index listing.

(a) FDA will make the list of indexed drugs available through the FDA Web site. A printed copy can be obtained by writing to the FDA Division of Freedom of Information or by visiting FDA's Division of Freedom of Information Public Reading Room.

(b) The list will contain the following information for each indexed drug:

(1) The name and address of the person who holds the index listing;

(2) The name of the drug and the intended use and conditions of use for which it is indexed;

(3) Product labeling; and