



ANDA 76-822

TEVA Pharmaceuticals USA
Attention: Philip Erickson, R.Ph.
Director, Regulatory Affairs
1090 Horsham Road
P.O. Box 1090
North Wales, PA 19454

Dear Sir:

This is in reference to your abbreviated new drug application (ANDA) dated August 19, 2003, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (the Act), for Rabeprazole Sodium Delayed-release Tablets, 20 mg.

Reference is made to the tentative approval letter issued by this office on February 15, 2006, and to your amendments dated July 30, and October 18, 2004; July 25, 2005; and November 20, and December 27, 2006.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly the ANDA is approved, effective on the date of this letter. The Division of Bioequivalence has determined your Rabeprazole Sodium Delayed-release Tablets, 20 mg, to be bioequivalent and, therefore, therapeutically equivalent to the reference listed drug (RLD), Aciphex Delayed-release Tablets, 20 mg, of Eisai Medical Research Inc. (Eisai).

Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your ANDA. The "interim" dissolution specifications are as follows:

Medium	(Acid) 0.1N HCl 2 hours (Buffer) pH 8 Buffer
Volume (mL)	700mL, 1000mL
USP Apparatus	II (paddle)
Rotation (rpm)	100, 50
FDA-recommended specifications	NMT % in 2 hours (acid) NLT % in 30 minutes (buffer)

Note that the Division of Bioequivalence has recommended a modified specification for the buffer stage of not less than (Q) of the labeled amount of the drug in the dosage form is dissolved in 60 minutes.

The "interim" dissolution test(s) and tolerances should be finalized by submitting dissolution data from the first three production size batches. These data should be submitted as a "Special Supplement - Changes Being Effected" if there are no revisions to be made to the "interim" specifications or when the final specifications are tighter than the "interim" specifications. In all other instances, the information should be submitted in the form of a Prior Approval Supplement.

The RLD upon which you have based your ANDA, Eisai's Aciphex Delayed-release Tablets, 20 mg, is currently subject to periods of patent protection. As noted in the agency's publication titled Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"), U.S. Patent Nos. 5,035,899 (the '899 patent) and 5,045,552 (the '552 patent) are scheduled to expire on April 4, 2009, and May 8, 2013, respectively.

Your ANDA contains paragraph IV certifications to the '899 and '552 patents under section 505(j)(2)(A)(vii)(IV) of the Act stating that each patent is invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Rabeprazole Sodium Delayed-release Tablets, 20 mg, under this ANDA. Section 505(j)(5)(B)(iii) of the Act provides that approval of an ANDA shall be made effective immediately unless action was brought against TEVA Pharmaceuticals USA (TEVA) for infringement of one or more of the patents that were the subjects of paragraph IV certifications. You notified the Agency that TEVA complied with the requirements of section 505(j)(2)(B) of the Act, and no action for patent infringement of the '899 patent was brought against TEVA within the statutory 45-day period.

However, litigation for infringement of the '552 patent was brought within the statutory 45-day period against TEVA in the United States District Court for the Southern District of New York [Eisai Co., Ltd. And Eisai Inc. v. TEVA Pharmaceuticals USA, Inc. and TEVA Pharmaceuticals Industries, Ltd., Civil Action No. 03 CV 9223]. Although this litigation remains ongoing, the 30-month period identified in section 505(j)(5)(B)(iii) of the Act, during which time FDA was precluded from approving your ANDA, has expired.

With respect to 180-day generic drug exclusivity, we note that TEVA was one of the first ANDA applicants to submit a substantially complete ANDA with a paragraph IV certification to the '899 and '552 patents. Therefore, with this approval, TEVA is eligible for 180-days of generic drug exclusivity for Rabeprazole Sodium Delayed-release Tablets, 20 mg. This exclusivity, which is provided for under section 505(j)(5)(B)(iv) of the Act, will begin to run from the earlier of the commercial marketing or court decision dates identified in section 505(j)(5)(B)(iv).¹ Please submit correspondence to this ANDA informing the agency of the date the exclusivity begins to run.

Under section 506A of the Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Postmarketing reporting requirements for this ANDA application are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of this drug.

Promotional materials may be submitted to FDA for comment prior to publication or dissemination. Please note that these submissions are voluntary. If you desire comments on proposed launch promotional materials with respect to compliance with applicable regulatory requirements, we recommend you submit, in draft or mock-up form, two copies of both the promotional materials and package insert(s) directly to:

¹Because your ANDA was filed before the date of enactment of the Medicare Prescription Drug, Improvement and Modernization Act (MMA) (Public Law 108-173) on December 8, 2003, this reference to the 180-day exclusivity provision is to the section of the Act as in effect prior to December 8, 2003. See MMA § 1102(b)(1).

Food and Drug Administration
Center for Drug Evaluation and Research
Division of Drug Marketing, Advertising, and Communications
5901-B Ammendale Road
Beltsville, MD 20705

We call your attention to 21 CFR 314.81(b)(3) which requires that all promotional materials be submitted to the Division of Drug Marketing, Advertising, and Communications with a completed Form FDA 2253 at the time of their initial use.

Sincerely yours,

{See appended electronic signature page}

Gary Buehler
Director
Office of Generic Drugs
Center for Drug Evaluation and Research

**This is a representation of an electronic record that was signed electronically and
this page is the manifestation of the electronic signature.**

/s/

Robert L. West
2/21/2007 11:22:19 AM
for Gary Buehler