



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
Silver Spring MD 20993

NDA 205580

TENTATIVE APPROVAL

Eagle Pharmaceuticals, Inc.
Attention: Foma Rashkovsky
Senior Director, Regulatory Affairs
50 Tice Boulevard, Suite 315
Woodcliff Lake, NJ 07677

Dear Mr. Rashkovsky:

Please refer to your New Drug Application (NDA) dated September 6, 2013, received September 6, 2013, submitted pursuant to section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act for bendamustine hydrochloride injection.

We refer to your initial submission dated June 30, 2013, received on July 1, 2013, and our Refuse to File letter dated August 28, 2013. Your September 6, 2013 submission was in response to our Refuse-to-File letter.

We acknowledge receipt of your amendments dated October 14, November 11, 26, December 27, 2013; January 8 (2), 27, 30, February 6, 10, March 7, 31, April 1, 7, 11, 25, May 5, 7, 9, 13, and June 18, 26, 2014.

This NDA provides for the use of bendamustine hydrochloride injection for Indolent Non-Hodgkin Lymphoma (NHL).

We have completed our review of this application, as amended. It is tentatively approved under 21 CFR 314.105 for use as recommended in the agreed-upon enclosed labeling (text for the package insert and carton and immediate container labels) and/or submitted labeling (text for the package insert submitted June 26, 2014 and carton and immediate container labels submitted April 25, 2014). This determination is based upon information available to the Agency at this time, [i.e., information in your application and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacture and testing of the drug product]. This determination is subject to change on the basis of any new information that may come to our attention.

The listed drug upon which your application relies is subject to a period of patent protection, and therefore final approval of your application under section 505(c)(3) of the Federal Food, Drug, and Cosmetic Act (the Act) [21 U.S.C. 355(c)(3)] may not be made effective until the patent protection period has expired.

Your application contains certifications to each of the patents under section 505(b)(2)(A)(iv) of the Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of, this drug product under this application (Paragraph IV certifications).

Section 505(c)(3)(C) of the Act provides that approval of a new drug application submitted pursuant to section 505(b)(2) of the Act shall be made effective immediately, unless an action is brought for infringement of one or more of the patents that were the subject of the paragraph IV certifications. This action must be taken prior to the expiration of forty-five days from the date the notice provided under section 505(b)(3) is received by the patent owner/approved application holder. You notified us that you complied with the requirements of section 505(b)(3) of the Act.

In addition, you have notified the Agency that the patent owner and/or approved application holder has initiated a patent infringement suit against you with respect to U.S. Patent No. 8,445,524 (524 patent) in the United States District Court, District of Delaware.

Finally, the Orphan Drug provisions of the Act [21 U.S.C. §§ 360aa-360dd] provide for a grant of seven years of market exclusivity to which a period of pediatric exclusivity may attach. Orphan drug exclusivity blocks approval of any other application for the same drug for the same indication. Cephalon Inc.'s product, TREANDA (bendamustine hydrochloride) has orphan drug exclusivity that currently blocks approval of your application.

Therefore, final approval of your application cannot be granted until the expiration of:

1. a. the 30-month period provided for in Section 505(c)(3)(C) beginning on the date of receipt of the 45-day notice required under Section 505(b)(3), unless the court has extended or reduced the period because of the failure of either party to reasonably cooperate in expediting the action, or
b. the date the court decides that the 524 patent is invalid or not infringed as described in section 505(c)(3)(C)(i), (ii), (iii,) or (iv) of the Act, or,
c. the 524 patent has expired; and
2. TREANDA's orphan drug exclusivity period.

In addition, we will not grant final approval until we are assured there is no new information that would affect whether final approval should be granted.

To obtain final approval of this application, submit an amendment two or six months prior to the: 1) expiration of the patents and/or exclusivity protection or 2) date you believe that your NDA will be eligible for final approval, as appropriate. In your cover letter, clearly identify your amendment as **“REQUEST FOR FINAL APPROVAL.”** This amendment should provide the legal/regulatory basis for your request for final approval and should include a copy of any relevant court order or judgment settlement, or licensing agreement, as appropriate. In addition to a safety update, the amendment should also identify changes, if any, in the conditions under which your product was tentatively approved, i.e., updated labeling; chemistry, manufacturing, and controls data; and risk evaluation and mitigation strategy (REMS). If there are no changes, clearly state so in your cover letter. Any changes require our review before final approval and the goal date for our review will be set accordingly.

Until we issue a final approval letter, this NDA is not deemed approved.

Please note that this drug product may not be marketed in the United States without final agency approval under Section 505 of the Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under Section 501 of the Act and 21 U.S.C. 331(d).

PROPRIETARY NAME

If you intend to have a proprietary name for this product, the name and its use in the labels must conform to the specifications under 21 CFR 201.10 and 201.15. We recommend that you submit a request for a proposed proprietary name review. See the guidance for industry titled, “*Contents of a Complete Submission for the Evaluation of Proprietary Names*,” at <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm075068.pdf> and “PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2008 through 2012.”

REQUIRED PEDIATRIC ASSESSMENTS

Under the Pediatric Research Equity Act (PREA) (21 U.S.C. 355c), all applications for new active ingredients, new indications, new dosage forms, new dosing regimens, or new routes of administration are required to contain an assessment of the safety and effectiveness of the product for the claimed indication in pediatric patients unless this requirement is waived, deferred, or inapplicable.

We note that if this application is ultimately approved, you will need to meet these requirements.

If you have any questions, call Laura Wall, Regulatory Project Manager, at (301) 796-2237.

Sincerely,

{See appended electronic signature page}

Ann T. Farrell, MD
Division Director
Division of Hematology Products
Office of Hematology and Oncology Products
Center for Drug Evaluation and Research

ENCLOSURE(S):

Content of Labeling
Carton and Container Labeling

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

/s/

ANN T FARRELL
07/02/2014