

ACTION PACKAGE CHECKLIST

Application Information		
BLA # NDA # 22-203	BLA STN# NDA Supplement #	If NDA, Efficacy Supplement Type
Proprietary Name: Astepro Established Name: azelastine hydrochloride Dosage Form: nasal spray		Applicant: MEDA Pharmaceuticals
RPM: Colette Jackson		Division: DPAP Phone # 6-1230
NDAs: NDA Application Type: <input checked="" type="checkbox"/> 505(b)(1) <input type="checkbox"/> 505(b)(2) Efficacy Supplement: <input type="checkbox"/> 505(b)(1) <input type="checkbox"/> 505(b)(2) (A supplement can be either a (b)(1) or a (b)(2) regardless of whether the original NDA was a (b)(1) or a (b)(2). Consult page 1 of the NDA Regulatory Filing Review for this application or Appendix A to this Action Package Checklist.)		505(b)(2) NDAs and 505(b)(2) NDA supplements: Listed drug(s) referred to in 505(b)(2) application (NDA #(s), Drug name(s)): Provide a brief explanation of how this product is different from the listed drug. <input type="checkbox"/> If no listed drug, check here and explain: Review and confirm the information previously provided in Appendix B to the Regulatory Filing Review. Use this Checklist to update any information (including patent certification information) that is no longer correct. <input type="checkbox"/> Confirmed <input type="checkbox"/> Corrected Date:
❖ User Fee Goal Date		October 15, 2008
❖ Action Goal Date (if different)		
❖ Actions		
• Proposed action		<input checked="" type="checkbox"/> AP <input type="checkbox"/> TA <input type="checkbox"/> AE <input type="checkbox"/> NA <input type="checkbox"/> CR
• Previous actions (specify type and date for each action taken)		<input type="checkbox"/> None NA
❖ Advertising (approvals only) Note: If accelerated approval (21 CFR 314.510/601.41), advertising must have been submitted and reviewed (indicate dates of reviews)		<input checked="" type="checkbox"/> Requested in AP letter <input type="checkbox"/> Received and reviewed

❖ Application Characteristics	
Review priority: <input type="checkbox"/> Standard <input checked="" type="checkbox"/> Priority Chemical classification (new NDAs only): NDAs, BLAs and Supplements: <input type="checkbox"/> Fast Track <input type="checkbox"/> Rolling Review <input type="checkbox"/> CMA Pilot 1 <input type="checkbox"/> CMA Pilot 2 <input type="checkbox"/> Orphan drug designation NDAs: Subpart H <input type="checkbox"/> Accelerated approval (21 CFR 314.510) <input type="checkbox"/> Restricted distribution (21 CFR 314.520) Subpart I <input type="checkbox"/> Approval based on animal studies BLAs: Subpart E <input type="checkbox"/> Accelerated approval (21 CFR 601.41) <input type="checkbox"/> Restricted distribution (21 CFR 601.42) Subpart H <input type="checkbox"/> Approval based on animal studies NDAs and NDA Supplements: <input type="checkbox"/> OTC drug Other: Other comments:	
❖ Application Integrity Policy (AIP)	
<ul style="list-style-type: none"> • Applicant is on the AIP 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<ul style="list-style-type: none"> • This application is on the AIP <ul style="list-style-type: none"> • Exception for review (<i>file Center Director's memo in Administrative Documents section</i>) • OC clearance for approval (<i>file communication in Administrative Documents section</i>) 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Not an AP action
❖ Public communications (approvals only)	
<ul style="list-style-type: none"> • Office of Executive Programs (OEP) liaison has been notified of action 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> • Press Office notified of action 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> • Indicate what types (if any) of information dissemination are anticipated 	<input checked="" type="checkbox"/> None <input type="checkbox"/> FDA Press Release <input type="checkbox"/> FDA Talk Paper <input type="checkbox"/> CDER Q&As <input type="checkbox"/> Other

<p>❖ Exclusivity</p> <ul style="list-style-type: none"> • NDAs: Exclusivity Summary (approvals only) (<i>file Summary in Administrative Documents section</i>) 	<p><input checked="" type="checkbox"/> Included</p>
<ul style="list-style-type: none"> • Is approval of this application blocked by any type of exclusivity? • NDAs/BLAs: Is there existing orphan drug exclusivity for the “same” drug or biologic for the proposed indication(s)? <i>Refer to 21 CFR 316.3(b)(13) for the definition of “same drug” for an orphan drug (i.e., active moiety). This definition is NOT the same as that used for NDA chemical classification.</i> • NDAs: Is there remaining 5-year exclusivity that would bar effective approval of a 505(b)(2) application? (<i>Note that, even if exclusivity remains, the application may be tentatively approved if it is otherwise ready for approval.</i>) • NDAs: Is there remaining 3-year exclusivity that would bar effective approval of a 505(b)(2) application? (<i>Note that, even if exclusivity remains, the application may be tentatively approved if it is otherwise ready for approval.</i>) • NDAs: Is there remaining 6-month pediatric exclusivity that would bar effective approval of a 505(b)(2) application? (<i>Note that, even if exclusivity remains, the application may be tentatively approved if it is otherwise ready for approval.</i>) 	<p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If, yes, NDA/BLA # and date exclusivity expires:</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, NDA # and date exclusivity expires:</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, NDA # and date exclusivity expires:</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, NDA # and date exclusivity expires:</p>
<p>❖ Patent Information (NDAs and NDA supplements only)</p>	
<ul style="list-style-type: none"> • Patent Information: Verify that form FDA-3542a was submitted for patents that claim the drug for which approval is sought. If the drug is an old antibiotic, skip the Patent Certification questions. 	<p><input checked="" type="checkbox"/> Verified <input type="checkbox"/> Not applicable because drug is an old antibiotic.</p>
<ul style="list-style-type: none"> • Patent Certification [505(b)(2) applications]: Verify that a certification was submitted for each patent for the listed drug(s) in the Orange Book and identify the type of certification submitted for each patent. • [505(b)(2) applications] If the application includes a paragraph III certification, it cannot be approved until the date that the patent to which the certification pertains expires (but may be tentatively approved if it is otherwise ready for approval). 	<p>21 CFR 314.50(i)(1)(i)(A) <input type="checkbox"/> Verified</p> <p>21 CFR 314.50(i)(1) <input type="checkbox"/> (ii) <input type="checkbox"/> (iii)</p> <p><input type="checkbox"/> No paragraph III certification Date patent will expire</p>
<ul style="list-style-type: none"> • [505(b)(2) applications] For each paragraph IV certification, verify that the applicant notified the NDA holder and patent owner(s) of its certification that the patent(s) is invalid, unenforceable, or will not be infringed (review documentation of notification by applicant and documentation of receipt of notice by patent owner and NDA holder). (<i>If the application does not include any paragraph IV certifications, mark “N/A” and skip to the next section below (Summary Reviews).</i>) • [505(b)(2) applications] For each paragraph IV certification, based on the questions below, determine whether a 30-month stay of approval is in effect due to patent infringement litigation. <p>Answer the following questions for each paragraph IV certification:</p> <p>(1) Have 45 days passed since the patent owner’s receipt of the applicant’s</p>	<p><input type="checkbox"/> N/A (no paragraph IV certification) <input type="checkbox"/> Verified</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

notice of certification?

(Note: The date that the patent owner received the applicant's notice of certification can be determined by checking the application. The applicant is required to amend its 505(b)(2) application to include documentation of this date (e.g., copy of return receipt or letter from recipient acknowledging its receipt of the notice) (see 21 CFR 314.52(e)).

If "Yes," skip to question (4) below. If "No," continue with question (2).

- (2) Has the patent owner (or NDA holder, if it is an exclusive patent licensee) submitted a written waiver of its right to file a legal action for patent infringement after receiving the applicant's notice of certification, as provided for by 21 CFR 314.107(f)(3)?

Yes No

If "Yes," there is no stay of approval based on this certification. Analyze the next paragraph IV certification in the application, if any. If there are no other paragraph IV certifications, skip to the next section below (Summary Reviews).

If "No," continue with question (3).

- (3) Has the patent owner, its representative, or the exclusive patent licensee filed a lawsuit for patent infringement against the applicant?

Yes No

(Note: This can be determined by confirming whether the Division has received a written notice from the (b)(2) applicant (or the patent owner or its representative) stating that a legal action was filed within 45 days of receipt of its notice of certification. The applicant is required to notify the Division in writing whenever an action has been filed within this 45-day period (see 21 CFR 314.107(f)(2)).

If "No," the patent owner (or NDA holder, if it is an exclusive patent licensee) has until the expiration of the 45-day period described in question (1) to waive its right to bring a patent infringement action or to bring such an action. After the 45-day period expires, continue with question (4) below.

- (4) Did the patent owner (or NDA holder, if it is an exclusive patent licensee) submit a written waiver of its right to file a legal action for patent infringement within the 45-day period described in question (1), as provided for by 21 CFR 314.107(f)(3)?

Yes No

If "Yes," there is no stay of approval based on this certification. Analyze the next paragraph IV certification in the application, if any. If there are no other paragraph IV certifications, skip to the next section below (Summary Reviews).

If "No," continue with question (5).

- (5) Did the patent owner, its representative, or the exclusive patent licensee bring suit against the (b)(2) applicant for patent infringement within 45 days of the patent owner's receipt of the applicant's notice of certification?

Yes No

(Note: This can be determined by confirming whether the Division has received a written notice from the (b)(2) applicant (or the patent owner or its representative) stating that a legal action was filed within 45 days of receipt of its notice of certification. The applicant is required to notify the Division in writing whenever an action has been filed within this 45-day period (see 21 CFR 314.107(f)(2)). If no written notice appears in the NDA file, confirm with the applicant whether a lawsuit was commenced

<p>within the 45-day period).</p> <p><i>If "No," there is no stay of approval based on this certification. Analyze the next paragraph IV certification in the application, if any. If there are no other paragraph IV certifications, skip to the next section below (Summary Reviews).</i></p> <p><i>If "Yes," a stay of approval may be in effect. To determine if a 30-month stay is in effect, consult with the Director, Division of Regulatory Policy II, Office of Regulatory Policy (HFD-007) and attach a summary of the response.</i></p>	
Summary Reviews	
<p>❖ Summary Reviews (e.g., Office Director, Division Director) (indicate date for each review)</p>	<p>DD- May 30, and October 15, 2008 CDTL- May 30, 2008 CMC- April 4, 2008 P/T- April 18, 2008 STATS- April 18, 2008</p>
<p>❖ BLA approvals only: Licensing Action Recommendation Memo (LARM) (indicate date)</p>	
Labeling	
<p>❖ Package Insert</p>	
<ul style="list-style-type: none"> • Most recent division-proposed labeling (only if generated after latest applicant submission of labeling) 	<p>October 14, 2008</p>
<ul style="list-style-type: none"> • Most recent applicant-proposed labeling (only if subsequent division labeling does not show applicant version) 	<p>October 15, 2008</p>
<ul style="list-style-type: none"> • Original applicant-proposed labeling • Other relevant labeling (e.g., most recent 3 in class, class labeling), if applicable 	<p>August 14, 2008</p>
<p>❖ Patient Package Insert</p>	
<ul style="list-style-type: none"> • Most-recent division-proposed labeling (only if generated after latest applicant submission of labeling) 	<p>October 14, 2008</p>
<ul style="list-style-type: none"> • Most recent applicant-proposed labeling (only if subsequent division labeling does not show applicant version) 	<p>October 15, 2008</p>
<ul style="list-style-type: none"> • Original applicant-proposed labeling • Other relevant labeling (e.g., most recent 3 in class, class labeling), if applicable 	<p>August 14, 2008</p>
<p>❖ Medication Guide</p>	
<ul style="list-style-type: none"> • Most recent division-proposed labeling (only if generated after latest applicant submission of labeling) 	
<ul style="list-style-type: none"> • Most recent applicant-proposed labeling (only if subsequent division labeling does not show applicant version) 	
<ul style="list-style-type: none"> • Original applicant-proposed labeling • Other relevant labeling (e.g., most recent 3 in class, class labeling) 	
<p>❖ Labels (full color carton and immediate-container labels)</p>	
<ul style="list-style-type: none"> • Most-recent division-proposed labels (only if generated after latest applicant submission) 	
<ul style="list-style-type: none"> • Most recent applicant-proposed labeling 	<p>October 10, 2008</p>

❖ Labeling reviews and minutes of any labeling meetings (<i>indicate dates of reviews and meetings</i>)	<input checked="" type="checkbox"/> DMETS April 22, 2008 <input type="checkbox"/> DSRCS <input checked="" type="checkbox"/> DDMAC September 12 and October 6, 2008 <input type="checkbox"/> SEALD <input checked="" type="checkbox"/> DRISK May 5, and October 8, 2008 <input checked="" type="checkbox"/> Memos of Mtgs May 14, 2008
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Administrative Documents

❖ Administrative Reviews (RPM Filing Review/Memo of Filing Meeting; ADRA) (<i>indicate date of each review</i>)	RPM filing Review- November 1, 2007 RPM PLR Labeling Review- December 3, 2007
❖ NDA and NDA supplement approvals only: Exclusivity Summary (<i>signed by Division Director</i>)	<input checked="" type="checkbox"/> Included
❖ AIP-related documents <ul style="list-style-type: none"> • Center Director's Exception for Review memo • If AP: OC clearance for approval 	
❖ Pediatric Page (all actions)	<input checked="" type="checkbox"/> Included
❖ Debarment certification (original applications only): verified that qualifying language was not used in certification and that certifications from foreign applicants are cosigned by U.S. agent. (<i>Include certification.</i>)	<input checked="" type="checkbox"/> Verified, statement is acceptable
❖ Postmarketing Commitment Studies <ul style="list-style-type: none"> • Outgoing Agency request for post-marketing commitments (<i>if located elsewhere in package, state where located</i>) • Incoming submission documenting commitment 	<input checked="" type="checkbox"/> None
❖ Outgoing correspondence (letters including previous action letters, emails, faxes, telecons)	October 12, 18, and December 3, 2007, and April 4, 14, and 23, May 13, 28, and 30, September 15, October 1, 9, and 14, 2008
❖ Internal memoranda, telecons, email, etc.	May 14, 2008
❖ Minutes of Meetings <ul style="list-style-type: none"> • Pre-Approval Safety Conference (<i>indicate date; approvals only</i>) • Pre-NDA/BLA meeting (<i>indicate date</i>) • EOP2 meeting (<i>indicate date</i>) • Other (e.g., EOP2a, CMC pilot programs) 	<input type="checkbox"/> No mtg May 3, 2005 <input checked="" type="checkbox"/> No mtg
❖ Advisory Committee Meeting <ul style="list-style-type: none"> • Date of Meeting • 48-hour alert or minutes, if available 	<input checked="" type="checkbox"/> No AC meeting
❖ Federal Register Notices, DESI documents, NAS/NRC reports (if applicable)	

CMC/Product Quality Information

❖ CMC/Product review(s) (<i>indicate date for each review</i>)	September 10, 2007 and March 28, 2008
❖ Reviews by other disciplines/divisions/Centers requested by CMC/product reviewer (<i>indicate date for each review</i>)	<input checked="" type="checkbox"/> None
❖ BLAs: Product subject to lot release (APs only)	<input type="checkbox"/> Yes <input type="checkbox"/> No
❖ Environmental Assessment (check one) (original and supplemental applications)	

<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Categorical Exclusion (<i>indicate review date</i>)(all original applications and all efficacy supplements that could increase the patient population) 	March 28, 2008
<ul style="list-style-type: none"> <input type="checkbox"/> Review & FONSI (<i>indicate date of review</i>) 	
<ul style="list-style-type: none"> <input type="checkbox"/> Review & Environmental Impact Statement (<i>indicate date of each review</i>) 	
❖ NDAs: Microbiology reviews (sterility & apyrogenicity) (<i>indicate date of each review</i>)	<input checked="" type="checkbox"/> Not a parenteral product
❖ Facilities Review/Inspection	
❖ NDAs: Facilities inspections (include EER printout)	Date completed: September 28, 2007 <input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Withhold recommendation

<ul style="list-style-type: none"> ❖ BLAs: Facility-Related Documents <ul style="list-style-type: none"> Facility review (<i>indicate date(s)</i>) Compliance Status Check (approvals only, both original and supplemental applications) (<i>indicate date completed, must be within 60 days prior to AP</i>) 	<input type="checkbox"/> Requested <input type="checkbox"/> Accepted <input type="checkbox"/> Hold
❖ NDAs: Methods Validation	<input type="checkbox"/> Completed <input type="checkbox"/> Requested <input type="checkbox"/> Not yet requested <input checked="" type="checkbox"/> Not needed

Nonclinical Information

❖ Pharm/tox review(s), including referenced IND reviews (<i>indicate date for each review</i>)	September 12, 2007, and March 27, 2008
❖ Review(s) by other disciplines/divisions/Centers requested by P/T reviewer (<i>indicate date for each review</i>)	<input checked="" type="checkbox"/> None
❖ Statistical review(s) of carcinogenicity studies (<i>indicate date for each review</i>)	<input checked="" type="checkbox"/> No carc
❖ ECAC/CAC report/memo of meeting	
❖ Nonclinical inspection review Summary (DSI)	<input type="checkbox"/> None requested December 31, 2007

Clinical Information

❖ Clinical review(s) (<i>indicate date for each review</i>)	September 13, 2007, February 29, and October 15, 2008
❖ Financial Disclosure reviews(s) or location/date if addressed in another review	September 13, 2007
❖ Clinical consult reviews from other review disciplines/divisions/Centers (<i>indicate date of each review</i>)	<input checked="" type="checkbox"/> None
❖ Microbiology (efficacy) reviews(s) (<i>indicate date of each review</i>)	<input checked="" type="checkbox"/> Not needed
❖ Safety Update review(s) (<i>indicate location/date if incorporated into another review</i>)	February 29, 2008
❖ Risk Management Plan review(s) (including those by OSE) (<i>indicate location/date if incorporated into another review</i>)	
❖ Controlled Substance Staff review(s) and recommendation for scheduling (<i>indicate date of each review</i>)	<input checked="" type="checkbox"/> Not needed
❖ DSI Inspection Review Summary(ies) (<i>include copies of DSI letters to investigators</i>)	<input checked="" type="checkbox"/> None requested
<ul style="list-style-type: none"> Clinical Studies Bioequivalence Studies Clin Pharm Studies 	
❖ Statistical Review(s) (<i>indicate date for each review</i>)	<input type="checkbox"/> None March 28, 2008
❖ Clinical Pharmacology review(s) (<i>indicate date for each review</i>)	<input type="checkbox"/> None March 28, 2008

Appendix A to Action Package Checklist

An NDA or NDA supplemental application is likely to be a 505(b)(2) application if:

- (1) It relies on published literature to meet any of the approval requirements, and the applicant does not have a written right of reference to the underlying data. If published literature is cited in the NDA but is not necessary for approval, the inclusion of such literature will not, in itself, make the application a 505(b)(2) application.
- (2) **Or** it relies for approval on the Agency's previous findings of safety and efficacy for a listed drug product and the applicant does not own or have right to reference the data supporting that approval.
- (3) **Or** it relies on what is "generally known" or "scientifically accepted" about a class of products to support the safety or effectiveness of the particular drug for which the applicant is seeking approval. (Note, however, that this does not mean *any* reference to general information or knowledge (e.g., about disease etiology, support for particular endpoints, methods of analysis) causes the application to be a 505(b)(2) application.)

Types of products for which 505(b)(2) applications are likely to be submitted include: fixed-dose combination drug products (e.g., heart drug and diuretic (hydrochlorothiazide) combinations); OTC monograph deviations (see 21 CFR 330.11); new dosage forms; new indications; and, new salts.

An efficacy supplement can be either a (b)(1) or a (b)(2) regardless of whether the original NDA was a (b)(1) or a (b)(2).

An efficacy supplement is a 505(b)(1) supplement if the supplement contains all of the information needed to support the approval of the change proposed in the supplement. For example, if the supplemental application is for a new indication, the supplement is a 505(b)(1) if:

- (1) The applicant has conducted its own studies to support the new indication (or otherwise owns or has right of reference to the data/studies).
- (2) **And** no additional information beyond what is included in the supplement or was embodied in the finding of safety and effectiveness for the original application or previously approved supplements is needed to support the change. For example, this would likely be the case with respect to safety considerations if the dose(s) was/were the same as (or lower than) the original application.
- (3) **And** all other "criteria" are met (e.g., the applicant owns or has right of reference to the data relied upon for approval of the supplement, the application does not rely for approval on published literature based on data to which the applicant does not have a right of reference).

An efficacy supplement is a 505(b)(2) supplement if:

- (1) Approval of the change proposed in the supplemental application would require data beyond that needed to support our previous finding of safety and efficacy in the approval of the original application (or earlier supplement), and the applicant has not conducted all of its own studies for approval of the change, or obtained a right to reference studies it does not own. For example, if the change were for a new indication AND a higher dose, we would likely require clinical efficacy data and preclinical safety data to approve the higher dose. If the applicant provided the effectiveness data, but had to rely on a different listed drug, or a new aspect of a previously cited listed drug, to support the safety of the new dose, the supplement would be a 505(b)(2).
- (2) **Or** the applicant relies for approval of the supplement on published literature that is based on data that the applicant does not own or have a right to reference. If published literature is cited in the supplement but is not necessary for approval, the inclusion of such literature will not, in itself, make the supplement a 505(b)(2) supplement.
- (3) **Or** the applicant is relying upon any data they do not own or to which they do not have right of reference.

If you have questions about whether an application is a 505(b)(1) or 505(b)(2) application, consult with your ODE's Office of Regulatory Policy representative.

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this page is the manifestation of the electronic signature.**

/s/

Colette Jackson
10/15/2008 04:41:20 PM