

Dated: February 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–03367 Filed 2–16–23; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2022–P–2842]

#### **Determination That Dihydroergotamine Mesylate 45 Injection USP, 1 Milligram/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) has determined that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 milligram (mg)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

**FOR FURTHER INFORMATION CONTACT:**

Donna Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–3600, [Donna.Tran@fda.hhs.gov](mailto:Donna.Tran@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list

as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, is the subject of NDA 005929, held by Bausch Health US, LLC, and initially approved on April 12, 1946. D.H.E. 45 (dihydroergotamine mesylate) is indicated for the acute treatment of migraine headaches with or without aura and the acute treatment of cluster headache episodes.

In a letter dated June 13, 2022, Bausch Health US, LLC notified FDA that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was being discontinued, and FDA moved the drug product to the “Discontinued Drug Product List” section of the Orange Book.

Baxter Healthcare Corporation submitted a citizen petition dated November 11, 2022 (Docket No. FDA–2022–P–2842), under 21 CFR 10.30, requesting that the Agency determine whether D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, from sale. We have also independently evaluated

relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 13, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2023–N–0438]

#### **International Drug Scheduling; Convention on Psychotropic Substances; Single Convention on Narcotic Drugs; World Health Organization; Scheduling Recommendations; ADB-BUTINACA; Alpha-PiHP; 3-Methylmethcathinone; Request for Comments**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is providing interested persons with the opportunity to submit written comments concerning recommendations by the World Health Organization (WHO) to impose international manufacturing and distributing restrictions, under international treaties, on certain drug substances. The comments received in response to this notice will be considered in preparing the United States’ position on these proposals for a meeting of the United Nations