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Dockets Management Branch
Food and Drug Administration
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Petition for Stay of Action

The undersigned submits this Petition requesting that the Commissioner of Food and Drugs stay final approval and/or the effective date of final approval of any and all abbreviated new drug applications ("ANDAs") for controlled-release oxycodone hydrochloride products that list OxyContin[®] (oxycodone HCl controlled-release) Tablets as the reference listed drug, unless and until the products covered by those ANDAs are the subject of appropriate risk management programs ("RMPs") consistent with the risk management program for OxyContin.

As described more fully below, this stay is required to avoid serious public health consequences that would result if generic modified-release oxycodone products were allowed to enter the market without the additional protections against improper patient selection and use, drug abuse, and diversion provided by RMPs similar to the RMP presently in force for OxyContin.

This Petition is submitted under Section 505 of the Federal Food, Drug and Cosmetic Act ("FFDCA") and Section 10.35 of the Food and Drug Administration's regulations on behalf of Purdue Pharma L.P. ("Purdue"), holder of approved New Drug Application 20-553 for OxyContin[®] (oxycodone HCl controlled-release) Tablets, 10 mg, 20 mg, 40 mg, 80 mg, and 160 mg ("OxyContin").

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Decisions Involved

The decisions that are the subject of this Petition for Stay of Action are possible final approvals of any and all ANDAs for modified-release oxycodone products that list OxyContin as the reference listed drug.

Action Requested

Petitioner requests that the Commissioner stay final approval and/or the effective date of final approval of the above-referenced ANDAs until: (1) the Commissioner has evaluated Purdue's three supplements for changes to the approved labeling for OxyContin, all of which incorporate Purdue's existing RMP into approved labeling; (2) ANDA applicants adopt labeling that conforms to that for OxyContin; and (3) ANDA applicants have developed and fully implemented RMPs, supported by appropriate staff and other resources, that are consistent with that for OxyContin. As explained more fully below, these actions are necessary to ensure that the public benefits of Purdue's carefully crafted RMP continue after generic modified-release oxycodone products are approved.¹

Statement of Grounds

I. Background

OxyContin (oxycodone HCl controlled-release) Tablets are an opioid analgesic, distributed by Purdue. OxyContin was originally approved in 1995 under NDA 20-553, and has been supplied in 10, 20, 40, 80, and 160 mg tablets for oral administration.² Control of the release of oxycodone from OxyContin is achieved by formulating the active ingredient in a dual-polymer matrix that dissolves in the gut over time. The tablet must be taken intact for the release of oxycodone to be controlled as intended. Along with other strong opioids, such as fentanyl-, morphine-, and hydromorphone-based products, OxyContin is subject to Schedule II (CII) controls under the Controlled Substances Act (21 U.S.C. §§ 801, *et seq.*). CII is the most restrictive classification available for approved products and raises the overall level of vigilance and surveillance by all regulated parties involved in the manufacturing, distribution, prescription, and dispensing of the product.

¹ Purdue concedes that it has an economic interest in assuring that the conditions which apply to OxyContin also apply to generic versions of the product. The presence of an economic interest, however, does nothing to degrade the significance of the public interest issues raised in this Petition.

² The 80 mg and 160 mg strengths were approved in 1997 and 2000, respectively.

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As a CII drug, OxyContin, like other products in its class, has “a high potential for abuse” and such abuse “may lead to severe psychological or physical dependence.” 21 U.S.C. § 812. Since Purdue became aware of reports of widespread abuse and diversion of OxyContin in certain parts of the country, control of these illicit activities has been at the forefront of DEA, FDA, and Purdue’s priorities. DEA recognizes the abuse and diversion of OxyContin has become a serious problem and, in response, has embarked upon an aggressive and comprehensive Action Plan to Prevent the Diversion and Abuse of OxyContin.³ This plan concentrates on enforcement and regulatory investigations targeting key points of diversion, including forged and fraudulent prescriptions, pharmacy theft, doctor shopping, and unscrupulous medical professionals.⁴ FDA also recognizes the serious risk of abuse, misuse, and diversion associated with modified-release opioids, including OxyContin. The Agency has worked closely with Purdue to educate physicians, other health care professionals, and patients regarding the serious and potentially fatal risks of abuse and misuse of OxyContin.⁵

In addition to the potentially severe health consequences to the individual abuser, abuse and diversion of CII drugs, including OxyContin, has a broader impact on society. Law enforcement authorities in some regions of the country have reported a large number of burglaries, thefts, and robberies of pharmacies and residences associated with OxyContin abuse. According to authorities, homes are robbed and individuals are targeted for their supplies of OxyContin.⁶ DEA reports that the criminal activities resulting from the abuse of

³ DEA Drug Intelligence Brief, *OxyContin: Pharmaceutical Diversion* (March 2002) (available at: <http://www.usdoj.gov/dea/pubs/intel/02017/02017.html>).

⁴ *DEA Action Plan to Prevent the Diversion and Abuse of OxyContin®* (available at: http://www.deadiversion.usdoj.gov/drugs_concern/oxycodone/abuse_oxy.htm); Statement of Asa Hutchinson, Administrator, Drug Enforcement Administration, Before the House Committee on Appropriations, Subcommittee on Commerce, Justice, State, and Judiciary (December 11, 2001) (available at: <http://www.usdoj.gov/dea/pubs/cngrtest/ct121101.html>).

⁵ Statement of John K. Jenkins, Director, Office of New Drugs, CDER, FDA, *OxyContin: Balancing Risks and Benefits: Hearings Before the Senate Committee on Health, Education, Labor, and Pensions* (Feb. 12, 2002) (available at: <http://www.fda.gov/ola/2002/oxycotin0212.html>); see also, FDA *OxyContin® Information Page* (available at: <http://www.fda.gov/cder/drug/infopage/oxycotin/default.htm>); Michelle Meadows, *Prescription Drug Abuse: FDA and SAMHSA Join Forces*, FDA Consumer, Mar.-Apr. 2003 (available at: http://www.fda.gov/fdac/features/2003/203_samhsa.html).

⁶ DEA Drug Intelligence Brief, *OxyContin: Pharmaceutical Diversion* (March 2002) (available at: <http://www.usdoj.gov/dea/pubs/intel/02017/02017.html>).

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OxyContin are quickly depleting the resources, financial as well as human, of certain local law enforcement agencies.⁷

In addition to the above, Purdue has taken numerous steps – many in collaboration with FDA and DEA – to address these concerns. First, the “Warnings,” “Precautions,” and other sections of the OxyContin Package Insert were strengthened, including the addition of a boxed warning regarding abuse potential and expanded messages to physicians concerning proper patient selection. Second, Purdue developed a Patient Package Insert that is now part of the approved labeling for OxyContin. Third, Purdue distributed a “Dear Health Care Professional” letter to prescribers, pharmacists, and other health care professionals, which describes potential risks associated with OxyContin and explains the changes to the labeling. Fourth, Purdue voluntarily ceased distributing the 160-mg tablets due to specific concerns over diversion and abuse of this dosage form.⁸ Finally, in close cooperation with FDA, Purdue developed a comprehensive RMP to further foster the safe prescribing and use of OxyContin.

Purdue’s comprehensive RMP for OxyContin® contains three basic elements: (1) extensive education for prescribers, pharmacists, patients, and the general public on the appropriate use of opioids in the treatment of pain and on the safe use of OxyContin in appropriate patients; (2) active surveillance for abuse, diversion and addiction, including establishment of the Researched Abuse, Diversion and Addiction-Related Surveillance System (RADARS™ System), which is an extensive, multifaceted program for monitoring for abuse, addiction, diversion, and overdose; and (3) specific interventions, when triggered by monitoring, including investigations of large increases in the number of prescriptions in a geographic area, providing prevention programs and education to educators and treatment providers when adolescent abuse is suspected and, when diversion is suspected, supporting the work of local law enforcement agencies on “reverse sting” operations, providing educational programs about diversion, abuse, addiction and proper pain care, and facilitating forensic identification of intercepted tablets. Together, these elements create a vital and broad-based RMP for controlling the abuse, misuse, and diversion of OxyContin. Purdue’s RMP is geographically specific (to the 3-digit zip code level) and includes more timely data collection than publicly available surveys of abuse. When high rates of abuse of OxyContin are detected, the RMP makes it possible to implement quickly, in a targeted manner, a wide range of responsive interventions. These include educational programs for health care

⁷ *DEA Action Plan to Prevent the Diversion and Abuse of OxyContin®* (available at http://www.deadiversion.usdoj.gov/drugs_concern/oxycodone/abuse_oxy.htm).

⁸ However, the 160 mg dose is still approved and could be the basis for ANDA approvals.

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practitioners and law enforcement personnel and educational awareness and prevention programs for at-risk populations.⁹

II. Argument

A. FDA and DEA Agree that an RMP is Essential for Modified-Release Opioid Products

FDA recently recommended that sponsors of every drug product submitted for approval consider how to minimize risks from the product's use, including the development and implementation of an RMP.¹⁰ Additionally, because all opioids are subject to abuse, misuse, and diversion, FDA has explicitly encouraged all sponsors of opioids sold in the United States to voluntarily review and revise the approved labeling for these products as necessary to provide adequate warnings and precautions regarding these risks and to promote responsible prescribing practices.¹¹ FDA has acknowledged that the development of an RMP is critical to this approach and "... is working with manufacturers of controlled-release opiates to implement RMPs aimed at minimizing abuse while still keeping the products available for people with a legitimate medical need."¹²

From the time that Purdue became aware of reports of widespread abuse and diversion of OxyContin in certain parts of the country, Purdue has worked with FDA to create adequate controls to thwart these illicit practices, largely via the development of the RMP. In collaboration with FDA, Purdue developed key elements to be included in the RMP, including educational programs for Purdue's sales representatives, practitioners, and the general public; changes in the product labeling; dissemination of abuse and diversion messages; revision of promotional materials; and formation of alliances with selected professional societies to further the understanding of pain management and addiction. FDA has reviewed and commented on multiple drafts of the RMP since August 2001.

⁹ Indeed, at the invitation of the DEA, Purdue presented an overview of the RMP at the 11th biannual DEA Pharmaceutical Industry Conference in September 2003.

¹⁰ FDA Draft Concept Paper, *Risk Management Programs* (March 3, 2003) (available at: <http://www.fda.gov/cder/meeting/groupIIfinal.pdf>).

¹¹ FDA Talk Paper: *FDA Strengthens Warnings for OxyContin* (July 25, 2001) (available at: <http://www.fda.gov/bbs/topics/ANSWERS/2001/ANS01091.html>).

¹² Michelle Meadows, *Prescription Drug Abuse: FDA and SAMHSA Join Forces*, FDA Consumer, Mar.-Apr. 2003 (available at: http://www.fda.gov/fdac/features/2003/203_samhsa.html).

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While not directly involved in development of Purdue's RMP, DEA has repeatedly stated that the best means of preventing the abuse and diversion of controlled substances, including OxyContin, is to increase awareness of the proper use and potential abuse and corresponding dangers of the products.¹³ Purdue implemented this concept through the educational component of its RMP. These extensive educational resources for prescribers, pharmacists, and the general public address the appropriate use of opioids in the treatment of pain, proper patient assessment and selection, prevention of diversion and abuse, and recognition of clinical findings and behaviors suggestive of abuse, diversion, or addiction. Following its adoption, Purdue discussed its RMP for OxyContin with DEA and has received positive feedback from the DEA. Indeed, in DEA's Action Plan referenced above, the cooperation of the manufacturer and distributor was noted as integral to the Plan's success.¹⁴ Purdue has maintained an ongoing dialogue with DEA with regard to the RMP.

The RMP for OxyContin was developed in the single-source environment that currently exists for the product. However, with several ANDAs for modified-release oxycodone products tentatively approved and the possibility of more, it is conceivable that a significant share of the market for modified-release oxycodone – and thus, a significant share of the risk management responsibilities – will extend beyond Purdue's control, given that any approved generic modified-release oxycodone product will necessarily have the same abuse liability as OxyContin. As a result, in order to maintain the integrity of the risk management controls established in Purdue's RMP for OxyContin, it is essential that manufacturers of generic modified-release oxycodone implement equivalent RMPs. Furthermore, to ensure that the risk management controls for modified-release oxycodone products are consistent over time, it is essential that generic applicants develop equivalent RMPs *before* FDA gives their respective ANDAs final approval. To allow otherwise could lead to serious public health implications because of the high potential for abuse and diversion of these drugs.

FDA has already acknowledged that manufacturers of generic modified-release opioids, such as oxycodone, should develop RMPs to minimize the risks associated with these products. During a December 17, 2003 meeting with Purdue concerning the RMP for Palladone™ Capsules (Purdue's hydromorphone HCl controlled-release product), FDA stated that all single-entity modified-release opioids, including generics, should have

¹³ Statement of Asa Hutchinson, Administrator, Drug Enforcement Administration, Before the House Committee on Appropriations, Subcommittee on Commerce, Justice, State, and Judiciary (December 11, 2001) (available at: <http://www.usdoj.gov/dea/pubs/cngrtest/ct121101.html>); Statement of Terrance W. Woodworth, Deputy Director, Officer of Diversion Control, Drug Enforcement Administration, Before the House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations (August 28, 2001) (available at <http://www.usdoj.gov/dea/pubs/cngrtest/ct082801.htm>).

¹⁴ *DEA Action Plan to Prevent the Diversion and Abuse of OxyContin®* (available at http://www.deadiversion.usdoj.gov/drugs_concern/oxycodone/abuse_oxy.htm).

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consistent RMPs and would be held to the same standards.¹⁵ Similarly, the FDA Risk Management Working Group Chair, Dr. Anne Trontell, has stated that FDA holds risk management programs for generics to the same standards as those for pioneer products. She explained, “I think our expectation . . . is that a generic product should have no lower standard and no different standard of risk management, and certainly not to confuse risk management options for the same product, just depending on who happens to be manufacturing them.”¹⁶

DEA has likewise shared its support for consistency in RMPs between pioneer and subsequent generics. In meetings with Purdue on the Palladone and OxyContin products, DEA officials expressed their concerns about generic forms of modified-release oxycodone entering the market without sufficient RMPs in place. DEA has also expressed its support for mandatory RMPs for high dose, modified-release opioid products.¹⁷

B. RMPs Should be Part of the Approved Labeling for Modified-Release Oxycodone Products

The extensive benefits of the RMP for OxyContin – widely acknowledged by FDA, DEA, and Purdue alike – will continue in a multisource environment if manufacturers of generic modified-release oxycodone products also are required to develop and implement equivalent RMPs for their products. Under Section 505(j)(2)(v) of the FDCA, an ANDA must contain “information to show that the labeling proposed for the new drug is the same as the labeling approved for the [reference] listed drug...”¹⁸ Accordingly, incorporating

¹⁵ FDA further clarified that each product would be examined on a case-by-case basis for differences but that, in principle, all CII single-entity modified-release opioids would be held to the same standard. For purposes of this Petition for Stay, there will be no relevant differences warranting divergent RMPs because this Petition concerns generic versions of OxyContin submitted under Section 505(j) of the Act.

¹⁶ Dr. Anne Trontell, Risk Management Working Group Chair, CDER, FDA, Remarks at FDA’s Risk Management Public Workshop (April 10, 2003) (transcript available at: <http://www.fda.gov/ohrms/dockets/dailys/03/May03/052103/02n-0528-tr00002.doc>).

¹⁷ Terrance W. Woodworth, Deputy Director, Office of Diversion Control, Drug Enforcement Administration, Remarks at the Meeting of FDA’s Anesthetic and Life Support Drugs Advisory Committee (Sept. 9, 2003) (transcript available at <http://www.fda.gov/ohrms/dockets/ac/03/transcripts/3978T1.DOC>).

¹⁸ 21 U.S.C. § 355(j)(2)(v). Incorporation of an RMP into approved labeling has recent and relevant precedent. An RMP was carefully crafted by FDA and Hoffmann-La Roche for Accutane® and, by incorporating the RMP into the approved labeling, generic manufacturers were required to develop identical RMPs as conditions of approval of their ANDAs. Referring to this situation, Dr. Anne Trontell, Risk Management Working Group Chair, stated that “there was explicit consideration on how FDA could

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portions of the RMP into the approved Package Insert and approval of the RMP as labeling will ensure that all such generic manufacturers must develop and implement an RMP that is equivalent to that for OxyContin, thereby providing a consistent approach to the control of potential abuse, misuse, and diversion of the drug product, regardless of its source.¹⁹

To incorporate the existing RMP into the approved labeling for OxyContin and to ensure that generic controlled-release oxycodone products are supported by their own appropriate RMPs, Purdue has submitted two labeling supplements to its NDA for OxyContin, and will shortly be submitting a third. These supplements and the specific reasons for their submission to FDA are described below.

(1) Changes Being Effected Supplement to Incorporate Overview of RMP into the Package Insert

On December 19, 2003, Purdue submitted a Changes Being Effected (“CBE”) Supplement advising FDA of changes to the “Warnings” section of the Package Insert for OxyContin that Purdue is implementing immediately. *See* Exhibit A. Specifically, the CBE Supplement adds a brief overview of the OxyContin RMP to the Package Insert. This overview is intended to publicize the existence of the RMP and encourage requests by health care professionals for access to its components, including the critical educational programs, which address the proper use of opioid medications, the risk of abusing such products, and concerns of illegal diversion. Inclusion of this information in the approved labeling for OxyContin requires generic applicants to include the same information in the Package Inserts for their products and also underscores FDA’s legal authority to require ANDA applicants, as a condition for final approval, to develop and implement RMPs with the same features as the OxyContin RMP.

through regulatory mechanisms make sure that generics used as close to an identical risk management program as the innovator.” She further explained that “much of that risk management program exists formally as part of labeling and that gives us the authority to require generics to have essentially an identical program.” *See* Remarks of Dr. Anne Trontell at FDA’s Risk Management Public Workshop (April 10, 2003) (transcript available at: <http://www.fda.gov/ohrms/dockets/dailys/03/May03/052103/02n-0528-tr00002.doc>).

¹⁹ For the reasons discussed herein, it is equally important that FDA also mandate, as a condition of approval, that all 505(b) applicants develop and implement an RMP that is equivalent in all relevant respects to that for OxyContin. Incorporation of the OxyContin RMP into the approved labeling for OxyContin will serve to facilitate this.

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(2) Changes Being Effected Supplement to Incorporate Specific Parts of the RMP into the Package Insert

The second supplement, being submitted by Purdue at the same time as this Petition, seeks to include a new subsection within the Precautions section of the Package Insert entitled, *Prescriber Information Resources*.²⁰ This new subsection incorporates specific educational elements of the RMP into the OxyContin Package Insert. Recognizing that the appropriate use of OxyContin is dependent upon the careful exercise of professional judgment by the prescriber, Purdue developed this new subsection to further ensure that prescribers are fully aware of, and have ready access to, the variety of educational resources available to assist them in the selection and monitoring of patients and to help prevent misuse, abuse, and diversion of OxyContin.

FDA approval of this supplement will further ensure that the Package Insert for OxyContin – the key resource consulted by prescribers – appropriately reflects the gravity of the abuse/misuse/diversion risks associated with opioids and alerts prescribers to additional materials and programs provided by Purdue to reduce these risks. Describing these programs with specificity in the Package Insert itself and providing a toll free number through which these materials can be easily obtained will likely result in wider dissemination of these critical educational materials, thus further strengthening the RMP.

Once this supplement is approved, generic applicants must incorporate the *Prescriber Information Resources* subsection into their respective Package Inserts, and as a necessary corollary, must develop and implement RMPs including, at a minimum, the elements specifically described in this new subsection. As a result, all health care professionals will have equal access to these important programs, regardless of whether they prescribe OxyContin® or generic controlled-release oxycodone.

(3) Supplement for Approval of the RMP as Labeling

Purdue is preparing a third supplement for submission as soon as possible, which seeks to include the RMP for OxyContin® in the approved labeling for the product.²¹ Pursuant to the third supplement, Purdue intends to disseminate the RMP to the public through a variety of means, including requesting its addition to FDA's web page for OxyContin, providing it to Purdue's sales representatives for dissemination to prescribers and dispensers, listing a toll-free number in the package insert through which the RMP can

²⁰ A copy of this second supplement will also be filed as a supplement to this Petition.

²¹ A copy of this third supplement will also be filed as a supplement to this Petition.

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be obtained, and posting it prominently on the OxyContin website maintained by Purdue. Once publicly disseminated in this manner, the RMP will clearly be considered “labeling” under the broad statutory definition.²²

The RMP is the type of labeling that warrants official Agency approval. Many drug products are safe and effective for their labeled indications under their labeled conditions of use, but nevertheless present risks. In the case of CII drugs, including OxyContin, primary risks include abuse and diversion. Other drug products, such as Accutane[®], present different risks. RMPs are intended to minimize the risks associated with a product, thus enhancing the risk/benefit ratio of the product and helping to ensure its safe and appropriate use. Because RMPs bear directly on the safe and appropriate use of drug products, it is critical that RMPs be well designed and implemented. Agency review and approval as labeling will give FDA control over the content and conduct of RMPs. Through the approval process, FDA can ensure that RMPs address all of the known risks associated with a product, using properly designed risk management intervention tools that satisfy well-defined risk management objectives. With respect to the conduct of RMPs, formal approval will also obligate sponsors to follow their RMPs and coordinate with the Agency when new information necessitates reevaluation and modification of the RMP. For these reasons, Purdue believes that all RMPs, including the OxyContin RMP, should be approved by the Agency as labeling.

Upon approval of Purdue’s third supplement, generic manufacturers must duplicate all elements of the RMP – from educational programs to outreach initiatives to surveillance and monitoring to sales force training – in support of their respective products. Without question, consistency across RMPs for OxyContin and generic copies will benefit the public health. Most importantly, requiring manufacturers of generic modified-release oxycodone to implement an equivalent RMP ensures that the effectiveness of the OxyContin RMP is not impeded or diluted as generic versions of the product enter the marketplace. Moreover, such consistency ensures a greater ease of administration of the RMPs as they apply to practitioners and pharmacists; provides all health care professionals with equal access to the various risk management tools, regardless of the specific product in which they are interested; eliminates unwarranted biases in the marketplace against those products that have a more rigorous RMP in place; prevents unjustified comparative marketing of products based on differences in the RMPs; and ensures that the regulatory and financial responsibility for developing, administering, and revising an RMP is shared by all who enter the market.

²² “The term ‘labeling’ means all labels and other written, printed or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.” 21 U.S.C. § 201(m).

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III. A Stay is Fully Justified

Section 10.35(e) of FDA's regulations provides that a stay shall be granted if all of the following criteria are met:

- (1) The petitioner will otherwise suffer irreparable injury;
- (2) The petitioner's case is not frivolous and is being pursued in good faith;
- (3) The petitioner has demonstrated sound public policy grounds supporting the stay; and
- (4) The delay resulting from the stay is not outweighed by public health or other public interests.

As described below, each of these criteria is met, and a stay should therefore be granted.

First, irreparable harm will result in the absence of a stay. The approval of generic modified-release oxycodone products without the active surveillance program and other protective elements of the RMP instituted by Purdue may be accompanied by an increase in diversion and abuse. At the very least, there will be one or more additional manufacturing sites, as well as more transit volume and routes, all of which may be targets for diversion. Any resulting increase in diversion and abuse would irreparably harm the public health.

Purdue will also suffer irreparable injury in the absence of a stay. Purdue has a strong interest in ensuring that its RMP remains effective and is not diluted by the distribution of generic modified-release oxycodone unaccompanied by the various risk management tools Purdue and FDA developed. The distribution of generic modified-release oxycodone products without effective RMPs unnecessarily risks an increase in injuries associated with misuse and abuse, and in crime associated with the abuse and diversion of these products. Such an increase would necessarily result in a resurgence of negative publicity for Purdue, resulting in irreparable harm to Purdue's reputation and that of the OxyContin product.²³

²³ Even if such an increase in abuse and diversion, and the associated harm to the public health, could be attributed solely to generic products with inadequate or nonexistent RMPs, Purdue, as the innovator company, would most certainly be mentioned in any reports of abuse, diversion or associated crimes, resulting in significant and unjustified reputational harm. Further, as has been demonstrated in regions where the abuse and diversion of OxyContin is prevalent, such behaviors frequently result in reluctance of physicians to prescribe OxyContin and reluctance in patients, themselves or because of their families, to take it. Thus, increased abuse and diversion would likely decrease the appropriate availability of the drug to patients who meet the approved indication. Although any increase in injuries and crime associated with the abuse, misuse, and diversion of generic controlled-release oxycodone products will also have a significant adverse economic impact on Purdue's OxyContin product, Purdue does not rely on such impact to support this Petition.

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Second, Purdue's case is strong, simple and compelling, and is not frivolous. Both of the Agencies with authority over the distribution and marketing of OxyContin – FDA and DEA – agree on the key points underlying this Petition. The Agencies: (a) support a strong RMP for OxyContin; (b) agree that one of the key methods to decrease the known risks is to increase awareness of the proper use and potential abuse of modified-release oxycodone; and (c) support implementation of consistent RMPs for generic modified-release oxycodone products. Granting of this Petition will result in the wider dissemination of the RMP and its educational components, thus strengthening Purdue's existing RMP. Additionally, granting this Petition and requiring manufacturers of generic modified-release oxycodone to implement appropriate RMPs ensures that the effectiveness of the OxyContin RMP is not diluted as generic versions of the product enter the marketplace. Any other approach would place the public health in substantial jeopardy in light of the potential for generic modified-release oxycodone products to be marketed with nonexistent, insufficient, or inconsistent RMPs that fail to adequately address the risks that accompany these drug products or impede the effectiveness of the RMP for OxyContin.

Third, sound public policy requires that the stay be granted. There can be no question that minimizing abuse, misuse, and diversion of modified-release oxycodone products benefits the public greatly, both by minimizing injuries to patients and abusers and by minimizing crime that is associated with illicit activities. An effective RMP also helps protect patients and ensure that they receive the medications they need. To ensure Purdue's RMP remains effective and these benefits continue uninterrupted, all manufacturers of modified-release oxycodone must develop and implement RMPs before their respective products are introduced into the marketplace. Approving generic modified-release oxycodone products before the Agency has acted on Purdue's labeling supplements and before generic manufacturers have developed and implemented appropriate RMPs could substantially undermine Purdue's risk management efforts and reverse any progress that has been made to date. When generic versions of a particular drug first enter the market, the distribution system for the drug is in turmoil and supply of the drug increases, sometimes substantially. During this time, perhaps more than any other time, consistency among risk management plans is critical. Accordingly, the requested stay is essential to the public health.

Fourth, any delay resulting from the stay is not outweighed by public health or other public interests. Because controlled-release oxycodone is classified as CII and widely reported to be subject to abuse and diversion, and because of inquiries Purdue has received from other manufacturers, Purdue assumes that generic applicants have already begun to consider implementing various risk management tools. Use of Purdue's RMP as a model should only serve to expedite this process, and therefore granting this Petition is not likely to cause significant delays. In any event, any minimal delay in final approval of generic products that may result from a stay is fully justified in light of the significant public health benefits discussed immediately above.

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IV. Conclusion

Purdue has strived to address the reports of abuse, misuse, and diversion of OxyContin by developing and implementing a comprehensive RMP for the drug. To ensure that the manufacturers of modified-release oxycodone products that subsequently enter the market develop and implement RMPs that consistently address these risks for their respective products, Petitioner requests that the Commissioner stay the effective date of any and all pending ANDA approvals for modified-release oxycodone products until: (1) the Commissioner has evaluated Petitioner's three labeling supplements for OxyContin, (2) ANDA applicants have adopted labeling that conforms to that for OxyContin, and (3) ANDA applicants have developed and fully implemented RMPs, supported by appropriate staff and other resources, that are consistent with that for OxyContin.

Respectfully submitted,



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