

or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### Background

The Commission instituted these reviews on January 3, 2006 (71 FR 138) and determined on April 10, 2006 that it would conduct full reviews (71 FR 23947, April 25, 2006). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 17, 2006 (71 FR 40543). The hearing was held in Washington, DC, on September 19, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on December 6, 2006. The views of the Commission are contained in USITC Publication 3892 (December 2006), entitled *Silicon Metal from Brazil and China: Investigation* Nos. 731-TA-471 and 472 (Second Review).

By order of the Commission.

Issued: December 6, 2006.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[OMB Number 1117-0042]

#### Agency Information Collection Activities: Proposed Collection; Comments Requested

**ACTION:** 60-Day Notice of Information Collection Under Review; National Clandestine Laboratory Seizure Report.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until February 9, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Clark R. Fleming, Field Division Counsel, El Paso Intelligence Center, 11339 SSG Sims Blvd., El Paso, TX 79908.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* National Clandestine Laboratory Seizure Report.

(3) *Agency form number, if any and the applicable component of the Department sponsoring the collection:* Form number: EPIC Form 143.

*Component:* El Paso Intelligence Center, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* State, Local or Tribal Government.

*Other:* None.

*Abstract:* Records in this system are used to provide clandestine laboratory seizure information to the El Paso Intelligence Center, Drug Enforcement Administration, and other Law enforcement agencies, in the discharge

of their law enforcement duties and responsibilities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are ninety-two (92) total respondents for this information collection. Seven thousand three hundred twenty-eight (7328) responded using paper at 1 hour a response and one thousand one hundred sixty-three (1163) responded electronically at 1 hour a response, for eight thousand four hundred ninety-one (8491) annual responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* It is estimated that there are 8491 annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: December 6, 2006.

**Lynn Bryant,**

*Department Clearance Officer, Department of Justice.*

[FR Doc. E6-21006 Filed 12-8-06; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Orlando Wholesale, L.L.C. Denial of Application

On November 18, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Orlando Wholesale, L.L.C., of Orlando, Florida (Respondent). The Show Cause Order proposed to deny Respondent's pending application for a DEA Certificate of Registration as a distributor of List I chemicals on the ground that its registration would be inconsistent with the public interest. See 21 U.S.C. 823(h) and 824(a).

The Show Cause Order specifically alleged that Respondent was proposing to distribute List I chemical products containing pseudoephedrine, a precursor chemical which is used to manufacture methamphetamine, to convenience stores in the Orlando area and that methamphetamine manufacturers often obtain the chemical from convenience stores. See Show Cause Order at 1-2. The Show Cause Order alleged that during DEA's pre-

registration investigation, investigators had determined that one of Respondent's co-owners had previously been involved in a firm that distributed List I chemicals without obtaining a proper registration. See *id.* The Show Cause Order further alleged that DEA Diversion Investigators (DIs) had requested that Respondent's owner provide them with information regarding his immigration status, his business licenses, and the nature of the co-owner's involvement in Respondent. See *id.* The Show Cause Order alleged that Respondent had failed to provide any of the requested information. See *id.*

On November 25, 2005, the Government attempted to serve the Show Cause Order on Respondent by certified mail, return receipt requested, at the address of its proposed registered location, 9500 Satellite Blvd., #230, Orlando, FL. The mailing was returned with a notation that Respondent's forwarding address was 1167 Doss Ave., Orlando, FL. Thereafter, on December 30, 2005, two DEA DIs went to the latter address and personally served Respondent's owner, Mr. Shakil Isani, with the Show Cause Order. Since that time, neither Respondent, nor anyone purporting to represent it, has responded. Because (1) more than thirty days have passed since Respondent's receipt of the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. See 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material found in the investigative file and make the following findings.

### Findings

Pseudoephedrine is a List I chemical that, while having a therapeutic use, is easily extracted from lawful products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. See 21 U.S.C. 802(34); 21 CFR 1308.12(d). As noted in numerous DEA orders, "methamphetamine is an extremely potent central nervous system stimulant." *Sujak Distributors*, 71 FR 50102, 50103 (2006); *A-1 Distribution Wholesale*, 70 FR 28573 (2005). Methamphetamine is highly addictive; its abuse has destroyed lives and families and ravaged communities. Moreover, because of the toxic nature of the chemicals used to make the drug, its manufacture creates serious environmental harms. *David M. Starr*, 71 FR 39367 (2006).

Respondent is a Florida corporation which has been in business since October 2003. On March 22, 2004,

Respondent applied for a registration as a distributor of List I chemicals and gave as the address of its proposed registered location: 9500 Satellite Blvd., # 230, Orlando, FL. On June 15, 2004, two DEA DIs conducted a pre-registration investigation at this address. At some point thereafter, Respondent changed its address to 1167 Doss Avenue, Orlando. Respondent did not, however, notify DEA.

During the pre-registration investigation, the DIs met with Respondent's owner, Mr. Shakil Isani. Mr. Isani told the DIs that Respondent is a wholesale distributor of some 700 different items to approximately 109 convenience stores in the greater Orlando area. Mr. Isani further advised the DIs that he is the owner and only officer of Respondent. When the DIs asked Mr. Isani for a copy of Respondent's Articles of Incorporation, Mr. Isani stated that three other individuals were listed as being managing members of the firm but that he planned on removing them. One of these individuals had previously come to the attention of DEA because he was operating a business (on behalf of his brother who had been convicted of several federal criminal offenses and was then serving a sentence of incarceration) which distributed List I chemicals without a valid DEA registration.

The DIs asked Mr. Isani to provide them with documentation regarding the removal of the other members of his firm. The DIs also asked Mr. Isani for personal data such as date, place of birth, and social security numbers for the other members. Mr. Isani agreed to provide the information. Mr. Isani has not, however, provided the information.

The DIs also asked Mr. Isani about his immigration status. Mr. Isani told the DIs that he was in the country under a work permit but that he did not have the documentation on him. The DIs then asked Mr. Isani to provide them with documentation of his status. Subsequently, the DIs conducted a check of Mr. Isani's status and determined that he was not legally in the United States and appeared to be subject to removal proceedings. The check, however, also showed that Mr. Isani had applied for an adjustment of status to become a resident alien. According to the investigative file, Mr. Isani has not provided the DIs with updated information on his status.

During the on-site inspection, the DIs also asked Mr. Isani to provide copies of his business licenses. Again, Mr. Isani has not provided any of the information that the DIs requested.

### Discussion

Under 21 U.S.C. 823(h), an applicant to distribute List I chemicals is entitled to be registered unless the registration would be "inconsistent with the public interest." In making this determination, Congress directed that I consider the following factors:

- (1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;
- (2) Compliance by the applicant with applicable Federal, State, and local law;
- (3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;
- (4) Any past experience of the applicant in the manufacture and distribution of chemicals; and
- (5) Such other factors as are relevant to and consistent with the public health and safety.

*Id.*

"These factors are considered in the disjunctive." *Joy's Ideas*, 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and may give each factor the weight I deem appropriate in determining whether an application for registration should be denied. See, e.g., *Starr*, 71 FR at 39367; *Energy Outlet*, 64 FR 14269 (1999). Moreover, I am "not required to make findings as to all of the factors." *Hoxie v. DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *Morall v. DEA* 412 F.3d 165, 173-74 (D.C. Cir. 2005).

Here, I conclude that an analysis of each factor is unnecessary and that Respondent's application should be denied for two reasons. First, Respondent's owner has failed to submit necessary information regarding three issues: (1) His business licenses, (2) his immigration status, and (3) the role of persons listed as managing members of the firm including one individual who has previously come to the attention of DEA. Second, Respondent changed its address—without notifying DEA—and after the on-site inspection was conducted.

DEA regulations expressly provide that "[t]he Administrator may require an applicant to submit such documents \* \* \* relevant to the application as [she] deems necessary to determine whether the application should be granted." 21 CFR 1309.35. The information sought by the DIs regarding Respondent's business licenses and its owner's immigration status was reasonably necessary to evaluate Respondent's compliance with applicable laws. See 21 U.S.C. 823(h)(2). In light of Respondent's failure to produce this information (as well as the information contained in the

investigative file), I conclude that Respondent was not in compliance with federal immigration laws and that Respondent does not possess the required state and/or local business licenses. Moreover, the information sought with respect to Respondent's managing members was essential to evaluate whether the firm would maintain "effective controls against diversion." *Id.* § 823(h)(1). Based on the information contained in the investigative file that one of Respondent's managing members had previously operated a business which distributed List I chemicals without a valid registration and Respondent's failure to provide any documentation showing that this individual no longer has a management or ownership interest in it, I conclude that Respondent does not maintain effective control against diversion.

Respondent's change of address provides further reason to deny its application. Under the Controlled Substances Act, a registration is location specific. See 21 U.S.C. 822(e) ("A separate registration shall be required at each principal place of business \* \* \* where the applicant \* \* \* distributes \* \* \* list I chemicals."). Respondent applied for a registration at 9500 Satellite Blvd., # 230, Orlando, Fl. It was at this location that the pre-registration investigation was conducted and the adequacy of Respondent's security controls was evaluated. See 21 CFR 1309.71(b). Respondent's change of its location after DEA conducted the pre-registration inspection renders moot the information obtained regarding its security measures and its application for registration at its prior place of business. Furthermore, Respondent has not submitted an application for its new location. Because Respondent applied to distribute List I chemicals from the Satellite Blvd. location and it is no longer in business at that location, I conclude that granting its application for a registration would be inconsistent with the public interest.

#### Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h), and 28 CFR 0.100(b) & 0.104, I hereby order that the application of Respondent Orlando Wholesale L.L.C., for a DEA Certificate of Registration as a distributor of List I chemicals be, and it hereby is, denied. This order is effective January 10, 2007.

Dated: December 1, 2006.

**Michele M. Leonhart,**

*Deputy Administrator.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Taby Enterprises of Osceola, Inc.; Denial of Application

On November 23, 2005, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Taby Enterprises of Osceola, Inc., of Plant City, Florida (Respondent). The Show Cause Order proposed to deny Respondent's pending application for a DEA Certificate of Registration as a distributor of the List I chemicals ephedrine and pseudoephedrine on the ground that its registration would be inconsistent with the public interest. See 21 U.S.C. 823(h) & 824(a).

The Show Cause Order specifically alleged that Respondent was proposing to distribute List I chemical products to convenience stores, which are non-traditional retailers of these products. See Show Cause Order at 2. The Show Cause Order further alleged that Respondent had no experience in the distribution of List I chemical products. See *id.* The Show Cause Order also alleged that Respondent provided a customer list which he represented as including his "established customers." *Id.* The Show Cause Order alleged, however, that when DEA investigators contacted these establishments, several "were out of business" and only a small number of them "expressed any interest in acquiring listed chemical products from" Respondent. *Id.* The Show Cause Order thus alleged that Respondent had "not provided complete and accurate information to DEA," and that DEA therefore could not determine whether Respondent would comply with federal law and protect against the diversion of listed chemical products. *Id.*

The Show Cause Order was served by certified mail, return receipt requested. On December 3, 2005, Respondent acknowledged receipt of the Show Cause Order as evidenced by the signed Return Receipt Card. Since that time, neither Respondent, nor anyone purporting to represent it, has responded. Because (1) More than thirty days have passed since Respondent's receipt of the Show Cause Order, and (2) no request for a hearing has been received, I conclude that Respondent has waived its right to a hearing. See 21 CFR 1309.53(c). I therefore enter this final order without a hearing based on relevant material found in the investigative file and make the following findings.

#### Findings

Ephedrine and pseudoephedrine are List I chemicals that, while having therapeutic uses, are easily extracted from lawful products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. See 21 U.S.C. 802(34); 21 CFR 1308.12(d). As noted in numerous DEA orders, "methamphetamine is an extremely potent central nervous system stimulant." Sujak Distributors, 71 FR 50102, 50103 (2006); A-1 Distribution Wholesale, 70 FR 28573 (2005). Methamphetamine abuse has destroyed lives and families and ravaged communities. Moreover, because of the toxic nature of the chemicals used to make the drug, its manufacture creates serious environmental harms. David M. Starr, 71 FR 39367 (2006).

Respondent is a Florida corporation which is located at 1912 Jim Redman Parkway, Plant City, Fl., 33566. Respondent has been in business since December 2002; its President and Owner is Mr. Muhammad Aslam Butt.

On May 2, 2005, Respondent applied for a registration as a distributor of the List I chemicals pseudoephedrine and ephedrine. Thereafter, on June 17, 2005, two DEA Diversion Investigators (DIs) went to Respondent's proposed registered location to conduct a pre-registration investigation. The DIs inspected Respondent's facility and interviewed Respondent's owner.

The DIs determined that Respondent sells sundry items including tobacco products, lighters, various over-the-counter drugs, batteries and small toys, etc., to local convenience stores and gas stations. Respondent also operates a retail store at the same location.

During the interview, Respondent informed the DIs that he wanted to expand his product line to include cold medicines that contain pseudoephedrine such as Advil, Nyquil/Dayquil, Tylenol Sinus, Tylenol Cold, Contact and Tylenol Flu. Respondent also told the DIs that he intended to sell Mini-Thins Two Way and other ephedrine products. Mr. Butt further stated that he would be the only individual who would handle List I chemical products and that he would purchase the products from F & S Distributing, Inc., and Price Master Corp.

According to the investigative file, Mr. Butt has no prior experience in the wholesale distribution of List I chemicals. Moreover, Mr. Butt told the DIs that he does not verify the identity of his customers by asking them to present an ID.