

that Respondent's president does have "some limited experience" working on weekends at another firm which distributes list I chemicals. ALJ Dec. at 15.

Distributors of list I chemicals are subject to a comprehensive and complex regulatory scheme. See 21 CFR Pts. 1309 & 1310. Moreover, as I explained in *Tri-County Bait Distributors*, merely working as a sales clerk does not establish that an applicant has relevant experience. 71 FR at 52163. Rather, for an applicant's (or its key employee's) experience to be relevant, the applicant must have been actively involved in the fulfillment of a registrant's regulatory obligations and demonstrate adequate knowledge of list I products.

While this standard may not have been clear at the time of the hearing, I nonetheless conclude that a remand is unnecessary. As explained above (and as the ALJ found), Respondent's president "has little knowledge of which products on his proposed product list contained ephedrine or pseudoephedrine." ALJ Dec. at 15–16. Thus, even if Respondent's president had established that he had performed regulatory obligations, his lack of knowledge of basic product information would still lead me to conclude that his experience was inadequate. I thus hold that this factor supports a finding that Respondent's registration would be inconsistent with the public interest.

Factor Five—Other Factors That Are Relevant to and Consistent With Public Health and Safety

Numerous DEA orders recognize that convenience stores and gas stations constitute the non-traditional retail market for legitimate consumers of products containing pseudoephedrine and ephedrine. See, e.g., *Tri-County Bait Distributors*, 71 FR at 52161; *D & S Sales*, 71 FR at 37608–09; *Branex, Inc.*, 69 FR at 8690–92. DEA orders also establish that the sale of list I chemical products by non-traditional retailers is an area of particular concern in preventing diversion of these products into the illicit manufacture of methamphetamine. See, e.g., *Joey Enterprises*, 70 FR 76866, 76867 (2005). As *Joey Enterprises* explains, "[w]hile there are no specific prohibitions under the Controlled Substances Act regarding the sale of listed chemical products to [gas stations and convenience stores], DEA has nevertheless found that [these entities] constitute sources for the diversion of listed chemical products." *Id.* See also *TNT Distributors, Inc.*, 70 FR 12729, 12730 (2005) (special agent testified that "80 to 90 percent of ephedrine and pseudoephedrine being

used [in Tennessee] to manufacture methamphetamine was being obtained from convenience stores"); *OTC Distribution Co.*, 68 FR 70538, 70541 (2003) (noting "over 20 different seizures of [gray market distributor's] pseudoephedrine product at clandestine sites," and that in an eight-month period distributor's product "was seized at clandestine laboratories in eight states, with over 2 million dosage units seized in Oklahoma alone"); *MDI Pharmaceuticals*, 68 FR 4233, 4236 (2003) (finding that "pseudoephedrine products distributed by [gray market distributor] have been uncovered at numerous clandestine methamphetamine settings throughout the United States and/or discovered in the possession of individuals apparently involved in the illicit manufacture of methamphetamine").

Significantly, all of Respondent's proposed customers participate in the non-traditional market for ephedrine and pseudoephedrine products. DEA orders recognize that there is a substantial risk of diversion of list I chemicals into the illicit manufacture of methamphetamine when these products are sold by non-traditional retailers. See, e.g., *Joy's Ideas*, 70 FR at 33199 (finding that the risk of diversion was "real" and "substantial"); *Jay Enterprises, Inc.*, 70 FR 24620, 24621 (2005) (noting "heightened risk of diversion" should application be granted). Under DEA precedents, an applicant's proposal to sell into the non-traditional market weighs heavily against the granting of a registration under factor five. So too here.

Because of the methamphetamine epidemic's devastating impact on communities and families throughout the country, DEA has repeatedly denied an application when an applicant proposed to sell into the non-traditional market and analysis of one of the other statutory factors supports the conclusion that granting the application would create an unacceptable risk of diversion. Thus, in *Xtreme Enterprises, Inc.*, 67 FR 76195, 76197 (2002), my predecessor denied an application observing that the respondent's "lack of a criminal record, compliance with the law and willingness to upgrade her security system are far outweighed by her lack of experience with selling list I chemicals and the fact that she intends to sell ephedrine almost exclusively in the gray market." More recently, I have denied applications explaining that an applicant's "lack of a criminal record and any intent to comply with the law and regulations are far outweighed by his lack of experience and the company's intent to sell ephedrine and

pseudoephedrine exclusively to the gray market." *Jay Enterprises*, 70 FR at 24621. *Accord Prachi Enterprises, Inc.*, 69 FR 69407, 69409 (2004).

Here, Respondent clearly lacks effective controls against diversion, its key employee has only limited experience in the wholesale distribution of list I chemical products during which he apparently learned very little about the products he seeks to carry, and yet it intends to distribute these products to non-traditional retailers, a market in which the risk of diversion is substantial.⁴ See *Taby Enterprises of Osceola, Inc.*, 71 FR 71557, 71559 (2006). Given these findings, it is indisputable that granting Respondent's application would be "inconsistent with the public interest." 21 U.S.C. 823(h).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h), and 28 CFR 0.100(b) & 0.104, I order that the application of Planet Trading, Inc., d/b/a United Wholesale Distributors, Inc., for a DEA Certificate of Registration as a distributor of list I chemicals be, and it hereby is, denied. This order is effective April 11, 2007.

Dated: February 28, 2007.

Michele M. Leonhart,
Deputy Administrator.

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DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995

⁴ Initially, Respondent also sought to sell high strength, high count list I products including several brands that DEA has frequently found during seizures of illicit methamphetamine laboratories. See Gov. Exh. 5, at 2. See also *OTC Distribution*, 68 FR at 70541, *MDI Pharmaceuticals*, 68 FR at 4236. At the hearing, however, Respondent expressed a willingness to carry only smaller packages of traditional cold and allergy medicines. See ALJ Dec. at 11. For the reasons stated above, I nonetheless conclude that the Government has shown that Respondent's registration would be inconsistent with the public interest.

(PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Current Population Survey (CPS)." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before May 11, 2007.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202-691-7628. (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, 202-691-7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for over 60 years. The labor force information gathered through the survey is of paramount importance in keeping track of the economic health of the Nation. The survey is the only source of data on total employment and unemployment, with the monthly unemployment rate obtained through this survey being regarded as one of the most important economic indicators. Moreover, the survey also yields data on the basic status and characteristics of persons not in the labor force. The CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which the various components of the American population are participating in the economic life of the Nation and with what success.

The labor force data gathered through the CPS are provided to users in the greatest detail possible, consistent with the demographic information obtained in the survey. In brief, the labor force data can be broken down by sex, age, race and ethnic origin, marital status, family composition, educational level, and other characteristics. Through such breakdowns, one can focus on the employment situation of specific

population groups as well as on the general trends in employment and unemployment. Information of this type can be obtained only through demographically oriented surveys such as the CPS.

The basic CPS data also are used as an important platform on which to base the data derived from the various supplemental questions that are administered in conjunction with the survey. By coupling the basic data from the monthly survey with the special data from the supplements, one can get valuable insights on the behavior of American workers and on the social and economic health of their families.

There is wide interest in the monthly CPS data among Government policymakers, legislators, economists, the media, and the general public. While the data from the CPS are used in conjunction with data from other surveys in assessing the economic health of the Nation, they are unique in various ways. They provide a measurement of total employment, including farm work, self-employment and unpaid family work, while the other surveys are generally restricted to the nonagricultural wage and salary sector. The CPS provides data on all jobseekers, and on all persons outside the labor force, while payroll-based surveys cannot, by definition, cover these sectors of the population. Finally, the CPS data on employment, unemployment, and on persons not in the labor force can be linked to the demographic characteristics of the many groups that make up the Nation's population, while the data from other surveys are usually devoid of demographic information.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- 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 agency's 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.
- 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 submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the Current Population Survey (CPS).

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Current Population Survey (CPS).

OMB Number: 1220-0100.

Affected Public: Households.

Total Responses: 55,000 per month.

Frequency: Monthly.

Total Responses: 660,000.

Average Time Per Response: 7 minutes.

Estimated Total Burden Hours: 77,000 hours.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operating/maintenance): \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 7th day of March 2007.

Mark Staniorski,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

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NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Thursday, March 15, 2007.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. NCUSIF Dividend and Insurance Premium.
2. Appeals from Cinfed Federal Credit Union and Emery Federal Credit Union of the Regional Director's Denials of Conversion from Multiple Common Bonds to Community Charters.
3. Proposed Rule: Parts 748, 749, and 750 of NCUA's Rules and Regulations, Disaster Preparedness and Records Preservation Program.
4. Proposed Rule: Part 716 of NCUA's Rules and Regulations, Model Privacy Form.