

and, after the investigation, issue an exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Levi, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2781.

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2009).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on July 20, 2009, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain lighting control devices including dimmer switches or parts thereof that infringe one or more of claims 36, 38, 47, 58, 65, 67, 76, 87, 94, 96, 105, 116, 178, 180, 189, and 197 of U.S. Patent No. 5,637,930, and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is— Lutron Electronics Co., Inc., 7200 Suter Road, Coopersburg, PA 18036.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Neptun Light, Inc., 960 North Shore Drive, Lake Bluff, IL 60044.

(c) The Commission investigative attorney, party to this investigation, is Benjamin Levi, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: July 20, 2009.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-17723 Filed 7-23-09; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on July 20, 2009 a Consent Decree in *United States v. Tyler Holding Company, Inc., and Delek Refining, Ltd.*, Civil Action No. 6:09cv319 was lodged

with the United States District Court for the Eastern District of Texas, Tyler Division.

In a complaint that was filed simultaneously with the Consent Decree, the United States sought injunctive relief and penalties against Tyler Holding Company, Inc., f/k/a La Gloria Oil and Gas Co. ("Tyler Holding"), and Delek Refining, Ltd. ("Delek"), pursuant to section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), for alleged Clean Air Act violations at a petroleum refinery in Tyler, Texas.

Under the settlement, Delek will implement air pollution control practices to reduce emissions of sulfur dioxide and volatile organic compounds (VOCs) from the refinery. Delek will adopt a refinery-wide enhanced flaring protocol to investigate the root cause of flaring incidents. Delek will also undertake an enhanced fugitive emission control program to minimize emissions of VOCs. In addition, Tyler Holding will pay a \$624,000 civil penalty for settlement of the claims in the complaint.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or submitted via e-mail to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov), and should refer to *United States v. Tyler Holding Company, Inc., and Delek Refining, Ltd.*, D.J. Ref. No. 90-5-2-1-08279.

The Consent Decree may be examined at the Offices of the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$18.50 (25 cents per

page reproduction cost) payable to the U.S. Treasury.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E9-17622 Filed 7-23-09; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on June 16, 2009, a proposed Consent Decree (Decree) in the case of *United States v. American Laboratories, Inc.*, Civil Action No. 8:09-CV-00194, was lodged with the United States District Court for the District of Nebraska. Under this Consent Decree, the Settling Defendant is required to pay a total of \$440,000 in civil penalty for alleged violations of the Clean Air Act, and recover and reuse at 93% of total isopropyl alcohol and implement best available control technology at its pharmaceutical manufacturing plant in Omaha, Nebraska.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *United States v. American Laboratories, Inc.*, D.J. Ref. No. 90-5-2-1-08313.

The Decree may be examined at the Office of the United States Attorney, 1620 Dodge Street, Suite 1400, Omaha, Nebraska 68102. During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html).

A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$9.25 (with attachments) or \$8.00 (without attachments) (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax,

forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 07-14]

#### CBS Wholesale Distributors; Grant of Renewal Application and Dismissal of Proceeding

On January 5, 2007, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to CBS Wholesale Distributors (Respondent), of Hephzibah, Georgia. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration which authorizes it to distribute List I chemicals, and the denial of any pending applications to renew or modify the registration, on the ground that his "registration is inconsistent with the public interest." Show Cause Order at 1.

More specifically, the Show Cause Order alleged that Respondent is "currently registered to distribute the List I chemicals pseudoephedrine and ephedrine," *id.* at 2, and that both chemicals are "commonly used to illegally manufacture methamphetamine, a schedule II controlled substance." *Id.* at 1. The Show Cause Order alleged that "there exists a 'gray market' in which certain pseudoephedrine and ephedrine products are distributed only to convenience stores and gas stations, from where they have a high incidence of diversion," and that these establishments "continue to be the primary source for precursors to be diverted to illicit methamphetamine laboratory operations in many states." *Id.* at 1-2.

Next, the Show Cause Order alleged that DEA had retained "an expert in the field of retail marketing and statistics to analyze national sales data for over-the-counter non-prescription drugs." *Id.* at 2. The Order alleged that the expert had determined that "the average small store could expect to sell monthly only about \$10.00 to \$30.00 worth of pseudoephedrine products," and "that the potential for sales of combination

ephedrine products [was] only about one-fourth of those sales levels." *Id.*

The Show Cause Order further alleged that Respondent's list I customers "are almost exclusively convenience stores and gas stations, which are part of the gray market for diversion" of these products, *id.* at 2, and that Respondent's "sales of combination ephedrine products are inconsistent with the known legitimate market and known end-user demand for products of this type." *Id.* at 3. The Order further alleged that Respondent is "serving an illegitimate market and [that its] continued registration would likely lead to increased diversion of List I chemicals." *Id.*<sup>1</sup>

Respondent timely requested a hearing on the allegations. The matter was placed on the docket of the Agency's Administrative Law Judges (ALJ), and an ALJ conducted a hearing in Savannah, Georgia on December 4-5, 2007. At the hearing, both the Government and Respondent elicited the testimony of witnesses and submitted documentary evidence. Following the hearing, both parties filed briefs containing their proposed findings of fact, conclusions of law, and arguments.

On June 10, 2008, the ALJ issued her recommended decision (ALJ). In her decision, the ALJ found persuasive the expert testimony of the Agency's expert witness that the average monthly sale of ephedrine products to meet legitimate demand is \$14.39 and that Respondent's customers were purchasing between five to eighty times this amount. ALJ at 33. The ALJ thus concluded that Respondent's sales of ephedrine products "to gray market entities are so grossly excessive that there is a high probability that these products are being diverted for illicit purposes, and that this fact alone outweighs" the evidence that Respondent provided adequate physical security for the products, maintained adequate records, and was selling only to customers who had obtained the required certification under the Combat Methamphetamine Epidemic Act. *Id.* at 34. The ALJ thus also concluded that "Respondent's continued registration would be inconsistent with the public interest," *id.* at 36, and recommended that its registration be revoked and that any pending applications to renew or

<sup>1</sup> The Show Cause Order also alleged that Respondent had "assisted \* \* \* a former DEA registrant, in maintaining his customer base [of convenience stores and gas stations] for combination ephedrine products, after he surrendered his \* \* \* registration for cause." Show Cause Order at 2. The Government, however, offered no evidence in support of this allegation.