

number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the pharmacist filling the prescription, and the date of filling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (*i.e.* private, common or contract carrier).

■ 7. Section 1306.24 is amended by redesignating the existing paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) to read as follows:

§ 1306.24 Labeling of substances and filling of prescriptions.

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(b) If the prescription is filled at a central fill pharmacy, the central fill pharmacy shall affix to the package a label showing the retail pharmacy name and address and a unique identifier, (*i.e.* the central fill pharmacy's DEA registration number) indicating that the prescription was filled at the central fill pharmacy, in addition to the information required under paragraph (a) of this section.

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■ 8. Section 1306.26 is amended by adding a new paragraph (g) to read as follows:

§ 1306.26 Dispensing without prescription.

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(g) Central fill pharmacies may not dispense controlled substances to a purchaser at retail pursuant to this section.

■ 9. Section 1306.27 is added to read as follows:

§ 1306.27 Provision of prescription information between retail pharmacies and central fill pharmacies for initial and refill prescriptions of Schedule III, IV, or V controlled substances.

Prescription information may be provided to an authorized central fill pharmacy by a retail pharmacy for dispensing purposes. The following requirements shall also apply:

(a) Prescriptions for controlled substances listed in Schedule III, IV or V may be transmitted electronically from a retail pharmacy to a central fill pharmacy including via facsimile. The retail pharmacy transmitting the prescription information must:

(1) Write the word "CENTRAL FILL" on the face of the original prescription and record the name, address, and DEA registration number of the central fill pharmacy to which the prescription has been transmitted and the name of the

retail pharmacy pharmacist transmitting the prescription, and the date of transmittal;

(2) Ensure that all information required to be on a prescription pursuant to § 1306.05 of this part is transmitted to the central fill pharmacy (either on the face of the prescription or in the electronic transmission of information);

(3) Indicate in the information transmitted the number of refills already dispensed and the number of refills remaining;

(4) Maintain the original prescription for a period of two years from the date the prescription was last refilled;

(5) Keep a record of receipt of the filled prescription, including the date of receipt, the method of delivery (private, common or contract carrier) and the name of the retail pharmacy employee accepting delivery.

(b) The central fill pharmacy receiving the transmitted prescription must:

(1) Keep a copy of the prescription (if sent via facsimile) or an electronic record of all the information transmitted by the retail pharmacy, including the name, address, and DEA registration number of the retail pharmacy transmitting the prescription;

(2) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacist filling the prescription, and dates of filling or refilling of the prescription;

(3) Keep a record of the date the filled prescription was delivered to the retail pharmacy and the method of delivery (*i.e.* private, common or contract carrier).

Dated: June 17, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309 and 1310

[Docket No. DEA-198F2]

RIN 1117-AA57

Control of Red Phosphorus, White Phosphorus and Hypophosphorous Acid (and Its Salts) as List I Chemicals; Exclusions and Waivers

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: On October 17, 2001, DEA published a Final Rulemaking (66 FR

52670) in which DEA added red phosphorus, white phosphorus (also known as yellow phosphorus) and hypophosphorous acid (and its salts) as List I chemicals. This action was taken because of the use and importance of these chemicals in the illicit manufacture of methamphetamine (a Schedule II controlled substance).

As List I chemicals, handlers of these materials became subject to Controlled Substances Act (CSA) chemical regulatory controls including registration, recordkeeping, reporting, and import/export requirements. DEA had determined that these controls are necessary to prevent the diversion of these chemicals to clandestine drug laboratories.

In order to provide flexibility for legitimate businesses, the October 17, 2001 rule established, on an interim basis, specific exclusions and waivers for chemical handlers engaged in certain activities. DEA has completed its review of comments pertaining to these interim provisions. This rulemaking finalizes these exclusions and waivers related to the handling of the listed chemicals red phosphorus, white phosphorus, and hypophosphorous acid (and its salts).

EFFECTIVE DATE: This final rule is effective June 24, 2003.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307-7183.

SUPPLEMENTARY INFORMATION:

Background

On September 25, 2000, DEA published a Notice of Proposed Rulemaking proposing that red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) be made List I chemicals (65 FR 57577). On October 17, 2001, DEA published a Final Rulemaking (66 FR 52670) in which DEA added red phosphorus, white phosphorus (also known as yellow phosphorus) and hypophosphorous acid (and its salts) as List I chemicals. This action was taken because of the use and importance of these chemicals in the illicit manufacture of methamphetamine (a Schedule II controlled substance).

As List I chemicals, handlers of these materials became subject to CSA chemical regulatory controls including registration, recordkeeping, reporting, and import/export requirements. DEA had determined that these controls are necessary to prevent the diversion of these chemicals to clandestine drug laboratories.