

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

On July 12, 1999, the United States lodged a proposed consent decree in the case of *United States v. Tomkins Industries, Inc., and Lasco Bathware, Inc.*, Civil Action No. CV-S-99-0865-JBR-LRL (D. Nevada), with the United States District Court for the District of Nevada.

The proposed consent decree resolves claims that the United States asserted against Tomkins Industries, Inc. and Lasco Bathware, Inc. in a civil lawsuit filed concurrently with the lodging of the consent decree on July 12, 1999. The complaint in this case alleges that defendants constructed and then operated two production lines at their Lasco Bathware facility located in the Hidden Valley Industrial Park in Moapa, Nevada, without complying with the Clean Air Act, the State Implementation Plan, or permits issued by the Clark County Board of Health, Air Pollution Control Division. Resins containing styrene used in the manufacture of bathtubs and shower stalls emit Volatile Organic Compounds ("VOCs") into the atmosphere, which create ground level ozone and smog. Among other things, the United States' lawsuit alleges that defendants operated without valid permits, failed to limit VOC emissions with Best Available Control Technology ("BACT"), and failed to comply with permit requirements.

The proposed Consent Decree requires defendants to pay a civil penalty of \$575,000. In addition, Defendants are required to install a Regenerative Thermal Oxidizer on Line 1 at the Lasco Bathware facility, and to cease operating any equipment on Line 2 at the Lasco Bathware facility that would cause the emission of air contaminants within eight months of the effective date of the Consent Decree.

The Department of Justice will accept comments relating to this Consent Decree for a period of thirty (30) days from the date of this publication. See 28 CFR 50.7. Address your comments to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and send a copy to the Environmental Enforcement Section, U.S. Department of Justice, 301 Howard Street, Suite 870, San Francisco, CA 94105. Your comments should refer to *United States v. Tomkins Industries, Inc., and Lasco Bathware, Inc.*, Civil Action No. CV-S-99-0865-JBR-LRL (D. Nevada), and DOJ No. 90-5-2-1-2128.

You may examine the proposed consent decree at the office of the United States Attorney, District of Nevada, 701 East Bridger Avenue, Suite 600, Las Vegas, Nevada 89101; or at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. You may also obtain a copy of the consent decree in person or by mail from the Consent Decree Library. Your request for a copy of the consent decree should refer to *United States v. Tomkins Industries, Inc., and Lasco Bathware, Inc.*, Civil No. CV-S-99-0865-JBR-LRL (D. Nevada), and DOJ No. 90-5-2-1-2128, and must include a check for \$9.50 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Joel Gross,

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

[FR Doc. 99-19205 Filed 7-27-99; 8:45 am]

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DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that the Department of Justice, in response to a request from citizens, has decided to extend the public comment period on the proposed consent decree in *United States v. Tucson Airport Authority, et al.*, Civil No. CIV-99-313-TUC-WDB, which was lodged on June 17, 1999, with the United States District Court for the District of Arizona ("Airport Property Decree"). Notice of the initiation of a 30-day comment period was published in the **Federal Register** on June 23, 1999. See 64 FR 33515-33516 (June 23, 1999). The Department of Justice will receive, for a period of 90 days from the June 23, 1999, date of publication of notice, comments relating to the proposed Airport Property Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States versus Tucson Airport Authority, et al.*, D. Ariz., Civil No. CIV-99-313-TUC-WDB, DOJ Ref. #90-11-3-369/2.

Joel Gross,

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

[FR Doc. 99-19195 Filed 7-27-99; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 99-8]

Mark L. Beck, D.D.S.; Revocation of Registration

On November 17, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Mark L. Beck, D.D.S. (Respondent) of Washington, DC. The Order to Show Cause notified Dr. Beck of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BB3603114 pursuant to 21 U.S.C. 824(a)(3), for reason that he is not currently authorized to handle controlled substances in the District of Columbia.

On December 3, 1998, Respondent, through counsel, filed a request for a hearing and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On December 8, 1998, Judge Bittner issued an Order for Prehearing Statements. In lieu of filing a prehearing statement, the Government filed a Motion for Summary Disposition on December 14, 1998, alleging that Respondent is currently registered with DEA to handle controlled substances in the District of Columbia, however he is currently without state authority to handle controlled substances in the District of Columbia. Although given an opportunity to file a response to the Government's motion, Respondent did not do so.

On January 15, 1999, Judge Bittner issued her Opinion and Recommended Ruling, finding that Respondent lacks authorization to handle controlled substances in the District of Columbia; granting the Government's Motion for Summary Disposition; and recommending that Respondent's DEA Certificate of Registration be revoked. Neither party filed exceptions to her opinion, and on February 17, 1999, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Decision of the Administrative Law Judge.

The Deputy Administrator finds that in its Motion for Summary Disposition, the Government asserted that Respondent's District of Columbia controlled substances registration

expired on March 30, 1997, and his license to practice dentistry in the District of Columbia expired on December 31, 1997. According to the Government neither of these licenses were renewed.

The Deputy Administrator further finds that while there is no documentation in the record to support the Government's assertions, Respondent did not dispute that his licenses to practice dentistry and to handle controlled substances in the District of Columbia both expired without being renewed. Therefore, the Deputy Administrator finds that Respondent is not currently authorized to handle controlled substances in the District of Columbia, where he is registered with DEA.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Respondent is not licensed to handle controlled substances in the District of Columbia. Since Respondent lacks this authority, he is not entitled to a DEA registration there.

In light of the above, Judge Bittner properly granted the Government's Motion for Summary Disposition. The parties did not dispute the fact that Respondent is currently unauthorized to handle controlled substances in the District of Columbia. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); See also *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *United States v. Consolidated Mines & Smelting Co.*, 44 F.2d 432 (9th Cir. 1971).

According to the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificates of Registration BB3603114, previously issued to Mark L. Beck, D.D.S., be, and it hereby is, revoked. The Deputy Administrator further orders that any

pending applications for renewal of such registration be, and they hereby are, denied. This order is effective August 27, 1999.

Dated: June 23, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99-19181 Filed 7-27-99; 8:45 am]

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Notice of information collection under review; reinstatement, with change, of a previously approved collection for which approval has expired; National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995. This proposed information collection was previously published in the **Federal Register** on January 27, 1999 at 64 FR 4125, allowing for a 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public comments until August 27, 1999.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530. 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:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate to the burden of the proposed collection of the information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit (Federally licensed firearms dealers, manufacturers, or importers). Secondary: None. Brief Abstract: The Brady Handgun Violence Prevention Act of 1994, required the Attorney General to establish a national instant criminal background check system that any Federal Firearm Licensee may contract, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm to a prospective purchaser would violate federal or state law. Information pertaining to licensees who may contact the NICS is collected to manage and control access to the NICS, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information. Additionally, the FFLS are requested to sign a legal document in order to ensure the privacy and security of NICS information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 6,000 Federal Firearms Licensees at 18 minutes per respondent.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,800 annual burden hours.

Public comment on this proposed information collection is strongly