

### § 1313.34

the country where the chemical shipment is destined; the name(s) and address(es) of any intermediate consignee(s).

[60 FR 32465, June 22, 1995, as amended at 77 FR 4238, Jan. 27, 2012; 81 FR 97040, Dec. 30, 2016]

### § 1313.34 Disposition of the international transaction declaration.

The broker or trader must retain an official record of the declaration (DEA Form 486) (available from the DEA Diversion Control Division secure network application after the Administration issues a transaction identification number) as the official record of the international transaction. In accordance with part 1310 of this chapter, declarations involving listed chemicals must be retained for two years.

[81 FR 97040, Dec. 30, 2016]

### § 1313.35 Return declaration or amendment to Form 486 for international transactions.

(a) Within 30 calendar days after an international transaction is completed, the broker or trader must file a report with the Administration through the DEA Diversion Control Division secure network application about the particulars of the transaction. This report must include the following information: The date(s) on which the listed chemical was released by the foreign customs officer(s) at the port(s); the actual quantity of listed chemical that left the country of export; the actual quantity of the listed chemical released by a customs officer at the port of entry; chemical; container; name of transferees; and the transaction identification and any other information as the Administration may specify. Upon receipt and review, the Administration will assign a completed report a transaction identification number. The report will not be deemed filed until the Administration has issued a transaction identification number.

(b) If an international transaction for which a DEA Form 486 has been filed fails to take place, the broker or trader must report to the Administration that the international transaction did not occur utilizing the DEA Diversion Control Division secure network applica-

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tion as soon as the broker or trader becomes aware of the circumstances.

[81 FR 97040, Dec. 30, 2016]

### § 1313.41 Suspension of shipments.

(a) The Administrator may suspend any importation or exportation of a chemical listed in § 1310.02 of this chapter based on evidence that the chemical proposed to be imported or exported may be diverted to the clandestine manufacture of a controlled substance. If the Administrator so suspends, he shall provide written notice of such suspension to the regulated person. Such notice shall contain a statement of the legal and factual basis for the order.

(b) Upon service of the order of suspension, the regulated person to whom the order applies under paragraph (a) of this section must, if he desires a hearing, file a written request for a hearing pursuant to §§ 1313.51–1313.57.

### § 1313.42 Prohibition of shipments from certain foreign sources.

(a) If the Administrator determines that a foreign manufacturer or distributor of ephedrine, pseudoephedrine, or phenylpropanolamine has refused to cooperate with a request by the Administrator for information known to the manufacturer or distributor on the distribution of the chemical, including sales, the Administrator may issue an order prohibiting the importation of the chemical in any case where the manufacturer or distributor is part of the chain of distribution.

(b) Not later than 60 days prior to issuing the order to prohibit importation, the Administrator shall publish in the FEDERAL REGISTER a notice of intent to issue the order. During the 60-day period, imports from the foreign manufacturer or distributor may not be restricted under this section.

[75 FR 10172, Mar. 5, 2010]

### HEARINGS

### § 1313.51 Hearings generally.

In any case where a regulated person requests a hearing regarding the suspension of a shipment of a listed chemical, the procedures for such hearing

shall be governed generally by the procedures set forth in the Administrative Procedure Act (5 U.S.C. 551-559) and specifically by section 6053 of the Chemical Diversion and Trafficking Act (Pub. L. 100-690), by 21 CFR 1313.52-1313.57, and by the procedures for administrative hearings under the Controlled Substances Act set forth in §§ 1316.41-1316.67 of this chapter.

**§ 1313.52 Purpose of hearing.**

If requested by a person entitled to a hearing, the Administrator shall cause a hearing to be held for the purpose of receiving factual evidence regarding the issues involved in the suspension of shipments within 45 days of the date of the request, unless the requesting party requests an extension of time.

**§ 1313.53 Waiver of modification of rules.**

The Administrator or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

**§ 1313.54 Request for hearing.**

(a) Any person entitled to a hearing pursuant to § 1313.52 and desiring a hearing shall, within 30 days after receipt of the notice to suspend the shipment, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

(b) If any person entitled to a hearing or to participate in a hearing pursuant to § 1313.41 fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the hearing, unless he shows good cause for such failure.

(c) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1313.57.

**§ 1313.55 Burden of proof.**

At any hearing regarding the suspension of shipments, the Agency shall have the burden of proving that the requirements of this part for such suspension are satisfied.

**§ 1313.56 Time and place of hearing.**

(a) If any regulated person requests a hearing on the suspension of shipments, a hearing will be scheduled no later than 45 days after the request is made, unless the regulated person requests an extension to this date.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

**§ 1313.57 Final order.**

As soon as practicable after the presiding officer has certified the record to the Administrator, the Administrator shall issue his order regarding the suspension of shipment. The order shall include the findings of fact and conclusions of law upon which the order is based. The Administrator shall serve one copy of his order upon each party in the hearing.

**PART 1314—RETAIL SALE OF SCHEDULED LISTED CHEMICAL PRODUCTS**

**Subpart A—General**

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- 1314.01 Scope.
- 1314.02 Applicability.
- 1314.03 Definitions.
- 1314.05 Requirements regarding packaging of nonliquid forms.
- 1314.10 Effect on state laws.
- 1314.15 Loss reporting.

**Subpart B—Sales by Regulated Sellers**

- 1314.20 Restrictions on sales quantity.
- 1314.25 Requirements for retail transactions.
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- 1314.35 Training of sales personnel.
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