Second, the Government took exception to Judge Randall's finding that Respondent has continued to make valuable contributions to the medical profession. The Government argued ''that a factor is not material in deciding whether a DEA registration application should be granted.'' The Deputy Administrator concludes that it is appropriate to consider what a registrant/applicant has done professionally since his/her misconduct. However in this case, the Deputy Administrator finds it significant that Respondent has continued to make valuable contributions to the medical profession despite not being able to handle controlled substances. The Deputy Administrator concludes that this factor does not support granting Respondent a DEA registration, since it appears that Respondent can make such contributions without a DEA registration.

Next the Government disagreed with Judge Randall's reliance on Respondent's assertion that he has become more conservative in his handling of controlled substances as a mitigating factor. The Government contended that Respondent's assertion is ''not necessarily credible in light of Respondent's adamant denial of the conduct underlying his criminal convictions.'' The Government further contended that Respondent has not handled controlled substances since his DEA registration was revoked. The Deputy Administrator agrees with the Government. Since Respondent has not handled controlled substances since 1990, there is no evidence that Respondent is more conservative in his handling of such substances, and in light of his failure to accept responsibility for his past actions, the Deputy Administrator is not convinced that Respondent will be more conservative in the future.

Further the Government took exception to Judge Randall's reliance on the fact that Respondent's convictions occurred 12 years ago and no new allegations of improper handling of controlled substances or adverse actions against Respondent's medical license were introduced in this matter. The Government argued that no such allegations were made in the previous proceeding regarding Respondent's last application for registration and that application was denied. The Deputy Administrator notes that Respondent has not been authorized to handle controlled substances since 1990 so presumably he has not had the opportunity to mishandle controlled substances.

The Deputy Administrator agrees with Judge Randall that passage of time alone is not dispositive, however it is a factor to be considered. *See Norman Alpert, M.D.*, 58 FR 67,420. But, the Deputy Administrator also notes that DEA has previously held that ''(t)he paramount issue is not how much time has elapsed since (the Respondent's) unlawful conduct, but rather, whether during that time (the) Respondent has learned from past mistakes and has demonstrated that he would handle controlled substances properly if entrusted with DEA registration.'' *See John Porter Richard, D.O.*, 61 FR 13,878 (1996), *Leonardo* v. *Lopez, M.D.*, 54 FR 36,915 (1989). In this case, it is clear from Respondent's continued denials of wrongdoing that he has not learned from his past mistakes and other than saying that he is more conservative now, he has not demonstrated that he would handle controlled substances properly in the future.

The Deputy Administrator disagrees with Judge Randall's recommended ruling that granting Respondent a restricted registration would be appropriate. Other than the passage of time, the circumstances which existed at the time of the prior proceeding have not changed sufficient to warrant issuing Respondent a DEA registration. Respondent continues to fail to acknowledge wrongdoing or accept responsibility for his actions. Therefore, the Deputy Administrator is not convinced that Respondent has been rehabilitated and would properly handle controlled substances in the future, even on a restricted basis. As a result, the Deputy Administrator concludes that Respondent's registration with DEA would be inconsistent with the public interest at this time.

Accordingly, 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 the application for registration, executed by Robert A. Leslie, M.D., be, and it hereby is, denied. This order is effective June 14, 1999.

Dated: May 6, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–12038 Filed 5–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA–172N]

Special Surveillance List of Chemicals, Products, Materials and Equipment Used in the Clandestine Production of Controlled Substances or Listed Chemicals

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final notice.

SUMMARY: On October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) was signed into law. The MCA makes it unlawful for any person to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, with reckless disregard for the illegal uses to which such laboratory supply will be put. Individuals who violate this provision are subject to a civil penalty of not more than $25,000; businesses which violate this provision are subject to a civil penalty of not more than $250,000. The term ''laboratory supply'' is defined as ''a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals.'' This final notice contains the list of ''laboratory supplies'' which constitutes the Special Surveillance List that was required to be published by the Attorney General pursuant to Title 21, United States Code, Section 842(a).

EFFECTIVE DATE: May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION: On October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) was signed into law. The MCA broadens controls on listed chemicals used in the production of methamphetamine and other controlled substances, increases penalties for the trafficking and manufacturing of methamphetamine and listed chemicals, and expands regulatory controls to include the distribution of lawfully marketed drug products which contain the listed chemicals ephedrine, pseudoephedrine and phenylpropanolamine. The MCA also

provides for the publication of a Special Surveillance List by the Attorney General. 21 U.S.C. 842(a). The Special Surveillance List identifies laboratory supplies which are used in the manufacture of controlled substances or listed chemicals. The MCA defines ''laboratory supply'' as ''a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals.'' 21 U.S.C. 842(a).

The Deputy Administrator of the DEA, in a December 1, 1998, **Federal Register** notice (63 FR 66201), published a proposed Special Surveillance List. The notice provided an opportunity for all interested parties to submit their comments and objections in writing on the proposed Special Surveillance List until December 31, 1998, DEA received one comment regarding the proposal. The comment was a joint response from the Agricultural Retailers Association (ARA) and The Fertilizer Institute (TFI). Both organizations fully supported the DEA's implementation of the Methamphetamine Control Act of 1996 and specifically the publication of the ''Special Surveillance List'' of laboratory supplies used in methamphetamine production. The ARA/TFI, however, asked if its members would be subject to the $250,000 civil penalty provisions of the MCA for thefts of anhydrous ammonia, a Special Surveillance List chemical, from portable tanks stored on their properties. In response to the ARA/TFI question, the civil penalty provision of the MCA applies to a ''distribution'' or ''sale'' of a laboratory supply by a business or firm to a customer for the unlawful production of controlled substances or listed chemicals. A theft by definition is not a distribution or a sale and thus individuals would not be subject to the civil penalty provisions of the MCA for thefts of a laboratory supply.

The MCA provides for a civil penalty of not more than $250,000 for the distribution by a business of a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, if that distribution was made with ''reckless disregard'' for the illegal uses to which such a laboratory supply would be put. 21 U.S.C. 842(a)(11), 842(c)(2)(C). Individuals who violate 21 U.S.C. 84(a)(11) are subject to a civil penalty of not more than $25,000. 21 U.S.C 842(c)(1)(A). For purposes of this provision, the term ''distribution'' includes the exportation of a laboratory supply.

The MCA further states that, for purposes of 21 U.S.C. 842(a)(11), there is a ''rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.''

The CSA contains other sections relating to the illegal manufacture of controlled substances. Section 841(d)(2) of Title 21 provides that any person who knowingly or intentionally distributes a listed chemical knowing, or having reasonable cause to believe, that it will be used in the illegal manufacture of a controlled substance, is subject to criminal prosecution. Section 843(a)(7) of Title 21 provides that any person who knowingly or intentionally distributes any chemical, product, equipment or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to mauufacture a controlled substance or listed chemical, is subject to criminal prosecution.

In developing the Special Surveillance List, the DEA consulted with both DEA and State/Local law enforcement and forensic laboratory authorities. The DEA examined clandestine laboratory seizure reports for information regarding: (1) Illicit drug production methods; (2) chemicals actually used in clandestine production of controlled substances and listed chemicals; and (3) the role and importance of chemicals used in the syntheses. In addition, the DEA considered the legitimate uses and market for these chemicals.

The Special Surveillance List focuses on chemicals used in the domestic production of controlled substances and listed chemicals. Therefore the list includes those chemicals used not only in the production of methamphetamine, but also of other controlled substances such as PCP, LSD, methcathinone and amphetamine. The list does not focus on chemicals used in the production of heroin or cocaine since these drugs are seldom produced domestically. However, the Special Surveillance List includes all listed chemicals as specified in 21 CFR 1310.02 (a) or (b). The phrase ''all listed chemicals'' includes all chemical mixtures and all over-the-counter (OTC) pharmaceutical products and dietary supplements which contain a listed chemical, regardless of their dosage form or packaging and regardless of whether the chemical mixture, drug product or dietary supplement is exempt from regulatory controls.

The following is the Special Surveillance List for laboratory supplies used in the manufacture of controlled substances and listed chemicals:

Special Surveillance List Published Pursuant to Title 21, United States Code, Section 842(a)(11)

Chemicals

All listed chemicals as specified in 21 CFR 1310.02 (a) or (b). This includes all chemical mixtures and all over-the-counter (OTC) products and dietary supplements which contain a listed chemical, regardless of their dosage form or packaging and regardless of whether the chemical mixture, drug product or dietary supplement is exempt from regulatory controls.

Ammonia Gas
Ammonium Formate
Bromobenzene
1,1-Carbonyldiimidazole
Cyclohexanone
1,1-Dichloro-1-fluoroethane (e.g. Freon 141B)
Diethylamine and its salts
2,5-Dimethoxyphenethylamine and its salts
Formamide
Formic Acid
Hypophosphorous Acid
Lithium Metal
Lithium Aluminum Hydride
Magnesium Metal (Turnings)
Mercuric Chloride
N-Methylformamide
Organomagnesium Halides (Grignard Reagents) (e.g. ethylmagnesium bromide and phenylmagnesium bromide)
Phenylethanolamine and its salts
Phosphorus Pentachloride
Potassium Dichromate
Pyridine and its salts
Red Phosphorus
Sodium Dichromate
Sodium Metal
Thionyl Chloride
ortho-Toluidine
Trichloromonofluoromethane (e.g. Freon-11, Carrene-2)
Trichlorotrifluoroethane (e.g. Freon 113)

Equipment

Hydrogenators
Tableting Machines
Encapsulating Machines
22 Liter Heating Mantels

Individuals and firms which distribute listed chemicals and chemicals, products, materials, or equipment on the above list, are hereby officially notified that these materials may be used in the illicit production of certain controlled substances or listed chemicals.

The Attorney General has delegated authority under the CSA and all subsequent amendments to the CSA to

the Administrator of the DEA pursuant to 28 CFR 0.100. The Administrator, in turn, has redelegated this authority to the Deputy Administrator pursuant to 28 CFR 0.104.

This surveillance list may be revised as appropriate. Notice of proposed changes will be published as they occur. While publication in the Federal Register satisfies the notification requirements for the Special Surveillance List, DEA is attempting to disseminate the list as widely as possible. Therefore, copies of the list will be sent to appropriate industry associations and trade journals, and to the extent practical, to individual manufacturers and distributors of ''laboratory supplies.'' In addition, a current surveillance list will be available on the DEA homepage at http://www.usdoj.gov/dea/.

Small Business Impact and Regulatory Flexibility Concerns

The Special Surveillance List applies to all individuals and firms which distribute the listed chemicals and laboratory supplies (chemicals, products, materials, or equipment) on the list. The notice does not impose any record-keeping or reporting requirements for any of the laboratory supplies which are not listed chemicals. Thus the surveillance list will have a negligible impact on affected parties.

The notice serves two purposes. First, it informs individuals and firms of the potential use of the items on the list for the production of listed chemicals and illicit drugs. Second, it advises individuals and firms that civil penalties may be imposed on them if they distribute a laboratory supply to a person anytime after the two week period following receipt of written notification by the Attorney General that the person has used, attempted to use, or distributed the laboratory supply further for the unlawful production of controlled substances or listed chemicals.

DEA chose to limit the number of chemicals, products, materials, and equipment on the Special Surveillance List to those most frequently used in the clandestine production of controlled substances or listed chemicals. Limiting the number of such items on the list minimizes the impact on wholesalers and retailers of the chemicals.

The Deputy Administrator hereby certifies that this notice has been drafted in a manner consistent with the principles of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This notice will provide an increased level of law enforcement control to prevent the diversion of laboratory supplies used for the production of listed chemicals and controlled substances. It will not however impose any new regulatory burden on the public. This notice fulfills the requirement imposed by Section 205 of the Methamphetamine Control Act (MCA) of 1996 that the Attorney General shall publish a special surveillance list which contains chemicals, products, materials, or equipment used in the manufacture of listed chemicals and controlled substances. A copy of this notice has been provided to the Chief Counsel for Advocacy at the Small Business Administration.

This notice has been drafted and reviewed in accordance with Executive Order 12866. This notice has not been determined to be a significant action. Therefore, this notice has not been reviewed and approved by the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this notice does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This notice will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This notice is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This notice will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: May 3, 1999.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 99–12037 Filed 5–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Privacy Act of 1974; New System of Records Notice; Iran Claims Program

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Notice of new system of records.

SUMMARY: The Foreign Claims Settlement Commission (FCSC) hereby publishes notice of the establishment of an additional records system to be effective as of June 22, 1999, and designated ''FCSC–29, Iran, Claims of less than $250,000 Against.'' These records originated as duplicates of records included within the system of records ''State-54, U.S./IRAN Claims Records,'' established October 26, 1982 (47 FR 47510), and were used by the FCSC between 1990 and 1995 to determine the validity and amount of claims of U.S. nationals of less than $250,000 each against the Islamic Republic of Iran that were covered by a lump-sum claims settlement agreement between the United States and Iran effective June 22, 1990. This system was renamed ''Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes'' on October 28, 1993 (58 FR 58032). As part of the review mandated by the President's Memorandum on Privacy and Personal Information in Federal Records of May 14, 1998, the FCSC has concluded that it should publish this system of records notice to more accurately reflect the existence and nature of the records in question as a separately identifiable system of records.

Any person interested in commenting on this system may do so by submitting comments in writing to the Administrative Office of the Foreign Claims Settlement Commission, 600 E Street, NW, Washington, DC 20579. Comments must be submitted on or before June 22, 1999. This records system will be added to the Commission's current Privacy Act Systems of Records.

EFFECTIVE DATE: The system of records designated ''JUSTICE/FCSC–29, Iran, Claims of less than $250,000 Against'' shall be established and become effective on June 22, 1999, as published herein unless amended by notice published prior to that date. The existing systems of records continue in effect.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission,