during an approximately 18 month period. This amount of pseudoephedrine is theoretically capable of producing approximately 1370 pounds of methamphetamine.

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant the application of Sinbad Distributing.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Sinbad Distributing be denied. This order is effective April 5, 2002.

Dated: February 22, 2002.

Asa Hutchinson,

Administrator.

[FR Doc. 02–5242 Filed 3–5–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Y & M Distributions, Inc.; Denial of Application

On or about July 27, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Y & M Distributors, Inc. (Y & M), located in Kissimmee, Florida, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated November 9, 1999, for a DEA Certificate of Registration as a distributor of the List I chemicals ephedrine, pseudoephedrine, and plhenylpropanolamine, pursuant to 21 U.S.C. 823(h), as being inconsistent with the public interest. The order also notified Y & M that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received August 4, 2000, as indicated by the signed postal receipt. In addition, on August 2, 2000, DEA investigators from the Orlando, Florida District Office traveled to Y & M's business premises and, when there was no answer to repeated knocking, affixed a copy of the OTSC to the front door. Since that time, no further response has been received from the applicant nor any person purporting to represent the applicant. Therefore, the Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Y & M is deemed to have waived its right to a hearing. After considering relevant material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds as follows. List I chemicals are chemicals that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine, ephedrine, and phenylpropanolamine are List I chemicals that are commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

The Administrator finds that on or about November 9, 1999, an application was received by the DEA Chemical Operations Registration section on behalf of Y & M for DEA registration as a distributor of the three above-mentioned List I chemicals. The DEA pre-registration inspection revealed that Y & M had no prior experience in distributing List I chemical products, and appeared unprepared to accept the responsibilities of a DEA registrant. The DEA investigation also revealed a number of Y & M's proposed customers and suppliers were being investigated for violations related to the distribution of List I chemicals; and further revealed substantial evidence that one of Y & M's corporate officers was involved in the illegal trafficking of pseudoephedrine.

Pursuant to 21 U.S.C. 823(h), the Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires the following factors be considered:

(1) Maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the applicant with applicable Federal, State, and local law;

(3) Any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

Like the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See, e.g. Energy Outlet,* 64 FR 14,269 (1999). *See also Henry J. Schwartz, Jr., M.D.* 54 FR 16, 422 (1989).

The Administrator finds factors two, four, and five relevant to this application.

Regarding factor two, the applicant's compliance with applicable law, the investigation revealed evidence tha a corporate officer of Y & M is currently in violation of applicable law. the DEA investigation revealed substantial evidence from a reliable Confidential Source that a corporate officer of Y & M is involved in trafficking illegal pseudoephedrine.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the DEA investigation revealed that the applicant has no previous experience related to handling or distributing listed chemicals.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that a corporate officer stated to investigators that, at the time of the pre-registration investigation, Y & M had only been in business approximately one year. Further, while Y & M and its employees/officers have no previous experience in distributing List I chemical products, a corporate officer expected these products to account for 20% of Y & M's business.

In addition, Y & M provided a proposed customer and supplier list that contains a number of firms that are currently under investigation for alleged diversion of List I chemicals. A corporate officer stated to investigators that Y & M planned to distribute List I chemical products to customers based outside of its usual geographical sales area. The corporate officer admitted that he knew maybe one or two of the 39 proposed customers listed. A number of the proposed customers are listed in a DEA computerized database as having derogatory information concerning their List I chemical handling practices. Therefore, Y & M has failed to adequately demonstrate either a legitimate supplier or a legitimate customer base for List I chemical products.

Therefore, for the above-stated reasons, the Administrator concludes

that it would be inconsistent with the public interest to grant the application of Y & M. The Administrator finds the lack of knowledge concerning the proposed customers, the number of proposed suppliers and customers currently under investigation, and the lack of an adequately demonstrated legitimate supply of and demand for List I chemical products creates an environment conducive to diversion, and thus poses an unacceptable risk of diversion.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Y & M be denied. This order is effective April 5, 2002.

Dated: February 22, 2002.

Asa Hutchinson,

Administrator.

[FR Doc. 02–5243 Filed 3–5–02; 8:45 am]

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NATIONAL SCIENCE FOUNDATION

Sunshine Act; Meeting

AGENCY HOLDING MEETING: National Science Foundation National Science Board

DATE AND TIME: March 13, 2002: 2:00 p.m.—3:00 p.m. Closed Session.

March 14, 2002: 2:00 p.m.—12:30 p.m. Closed Session.

March 14, 2002: 1:30 p.m.—4:00 p.m. Open Session.

PLACE: The National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230, *www.nsf.gov/nsb*.

STATUS: Part of this meeting will be closed to the public.

Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Wednesday, March 13, 2002

Closed Session (2:00 P.M.—3:00 P.M.)

—Closed Session Minutes, November, 2001
—NSB Vannevar Bush Award
—NSF Waterman Award
—NSB Member Proposals
—Election NSB Nominating Committee

Thursday, March 14, 2002

Closed Session (12:30 P.M.—1:30 P.M.)

—Awards and Agreements
NSF Budget, FY 2003, 2004

Open Session (1:30 P.M.—4:00 P.M.)

—Open Session Minutes, November, 2001
—Closed Session Items for May, 2002
—Chairman's Report
—Director's Report
—Director's Merit Review Report
—Environmental Activities Report
—Committee Reports
—NSF Long Range Planning Environment
—Other Business

Marta Cehelsky,

Executive Officer.

[FR Doc. 02–5436 Filed 3–4–02; 12:00 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District Fort Calhoun Station Exemption

1.0 Background

The Omaha Public Power District (OPPD/the licensee) is the holder of Facility Operating License No. DPR–40 which authorizes operation of the Fort Calhoun Station. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in Washington County, Nebraska.

2.0 Purpose

Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix G, requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak-rate testing conditions. Specifically, 10 CFR part 50, Appendix G, states that, ''The appropriate requirements on both the pressure-temperature limits and the minimum permissible temperature must be met for all conditions.'' In addition, 10 CFR part 50, Appendix G, specifies that the requirements for these limits ''must be at least as conservative as the limits obtained by following the methods of analysis and the margins of safety of Appendix G of Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code).'' The approved methods of analysis in Appendix G of Section XI require the use of K_{Ia} fracture toughness curve in the determination of the P–T limits.

By letter dated December 14, 2001, OPPD submitted a license amendment request to update the P–T limit curves for the Fort Calhoun Station. By letter dated December 14, 2001, OPPD requested NRC approval for an exemption to use Code Case N–640 as an alternative method for complying with the fracture toughness requirements in 10 CFR part 50, Appendix G, for generating the P–T limit curves. Requests for such exemptions may be submitted pursuant to 10 CFR 50.60(b), which allows licensees to use alternatives to the requirements of 10 CFR part 50, Appendices G and H, if the Commission grants an exemption pursuant to 10 CFR 50.12 to use the alternatives.

Code Case N–640 (formerly Code Case N–626)

Code Case N–640 permits application of the lower bound static initiation fracture toughness value equation (K_{Ic} equation) as the basis for establishing the curves in lieu of using the lower bound crack arrest fracture toughness value equation (i.e., the K_{Ia} equation, which is based on conditions needed to arrest a dynamically propagating crack, and which is the method invoked by Appendix G to Section XI of the ASME Code). Use of the K_{Ic} equation in determining the lower bound fracture toughness in the development of the P–T operating limits curve is more technically correct than the use of the K_{Ia} equation since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} equation appropriately implements the use of the static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. However, since use of Code Case N–640 constitutes an alternative to the requirements of Appendix G, licensees need staff approval to apply the code case methods to the P–T limit calculations.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule