

required the United States Attorney General to establish a national instant criminal background check system that any Federal Firearms Licensee (FFL) may contact, by telephone or by other electronic means for information to be supplied immediately, on whether receipt of a firearm to a prospective purchaser would violate state or federal law. Information pertaining to licensees who may contact the NICS is being collected to manage and control access to the NICS and to the NICS E-Check, to ensure appropriate resources are available to support the NICS, and also to ensure the privacy and security of NICS information.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

It is estimated that 500 Federal Firearms Licensees (FFLs) enroll with the NICS per month for a total of 6,000 enrollments per year. The average response time for reading the directions for the Federal Bureau of Investigation National Instant Criminal Background Check System (NICS) Federal Firearms Licensee (FFL) Enrollment/NICS Electronic Check (E-Check) Enrollment Form is estimated to be two minutes; time to complete the form is estimated to be three minutes; and the time it takes to assemble, mail, or fax the form to the FBI is estimated to be three minutes, for a total of eight minutes.

The average hour burden for this specific form is $6,000 \times 8 \text{ minutes}/60 = 800$ hours. The Federal Firearms Licensee (FFL) Officer/Employee Acknowledgment of Responsibilities Under the National Instant Criminal Background Check System (NICS) Form takes approximately three minutes to read the responsibilities and two minutes to complete the form, for a total of five minutes. The average hour burden for this specific form is $6,000 \times 5 \text{ minutes}/60 = 500$ hours.

The accompanying letter mailed with the packet takes an additional two minutes to read which would be $6,000 \times 2 \text{ minutes}/60 = 200$ hours.

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the accompanying letter would be $6,000 \times 15/60 = 1,500$ hours.

(5) *An estimate of the total public burden (in hours) associated with the collection:*

The entire process of reading the letter and completing both forms would take 15 minutes per respondent. The average hour burden for completing both forms and reading the

accompanying letter would be $6,000 \times 15/60 = 1,500$ hours.

If additional information is required, contact: Ms. Lynn Bryant, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: August 18, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Spirit Pharmaceuticals, L.L.C.; Dismissal of Proceeding

On June 22, 2007, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Suspend Shipment (hereinafter, Suspension Order) to Spirit Pharmaceuticals, L.L.C. (Respondent), of Fairless Hills, Pennsylvania. Suspension Order at 1. The Order suspended Respondent's proposed importation of 2,000 kilograms of ephedrine hydrochloride from Emmellen Biotech Pharmaceuticals, Ltd., of Mumbai, India, on the ground that the product "may be diverted" to the illicit manufacture of methamphetamine, a schedule II controlled substance. *Id.* at 3; *see also* 21 U.S.C. 971(c).

The Suspension Order alleged that Respondent had identified AAA Pharmaceutical, Inc. (AAA), on its Import Declaration (DEA Form 486) as the customer for the product. *Id.* at 2. The Order also alleged that in a telephone conversation, a "representative of AAA stated that the ephedrine was to be manufactured into tablets, packaged, and sold to Novelty, Inc." *Id.* Finally, the Order alleged that Novelty, Inc., distributed over-the-counter products containing ephedrine to entities such as gas stations and convenience stores, *id.* at 3, that these outlets sell ephedrine products "in quantities that exceed what would be necessary to meet legitimate demand," and that the products "are often sold to persons for use in the illicit manufacture of methamphetamine." *Id.* at 2.

Neither Respondent nor AAA requested a hearing on the allegations.¹

¹ Novelty did, however, request a hearing on the Suspension Order. On August 17, 2007, I denied Novelty's request. *See* 72 FR 49316 (2007).

The record was then forwarded to me for final agency action.

On January 17, 2008, I also issued an Order to Show Cause and Immediate Suspension of Registration to Novelty.² On September 3, 2008, following a hearing, I ordered the revocation of Novelty's registration as a distributor of list I chemicals and the denial of any applications it had pending before the Agency. *See Novelty Distributors, Inc.*, 73 FR 52689, 52704 (2008).

Shortly thereafter, Novelty filed a Petition for Review in the U.S. Court of Appeals for the District of Columbia Circuit. On June 22, 2009, the Court of Appeals issued a Per Curiam Order denying Novelty's Petition for Review. *See Novelty, Inc., v. DEA*, 2009 WL 1930184, *1 (D.C. Cir. June 22, 2009). Moreover, on July 28, 2009, the Court of Appeals denied Novelty's Petitions for Rehearing and Rehearing En Banc. *See Novelty, Inc., v. DEA*, No. 08-1296 (D.C. Cir. Filed July 28, 2009) (order denying rehearing and order denying rehearing en banc).

As noted above, the Suspension Order was based on Respondent's intended distribution of the ephedrine to AAA, which sought the ephedrine for the purpose of manufacturing ephedrine products for Novelty. The Court of Appeals, however, has now upheld the Agency's Final Order revoking Novelty's registration. Because Novelty lacks authority under Federal law to distribute ephedrine products, I conclude that this case is now moot. *Cf. Board of License Comm'rs v. Pastore*, 469 U.S. 238, 239 (1985) (per curiam). Accordingly, this proceeding is dismissed.

It is so ordered.

Dated: August 12, 2009.

Michele M. Leonhart,

Deputy Administrator.

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DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

August 18, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection request (ICR) to the Office of

² Because Novelty's registration was immediately suspended, my review of the Order to Suspend Shipment was held in abeyance pending the issuance of the final order in Novelty and judicial review of it.