

§ 35–48–3–5(e), state law further provides that “[t]he board may reinstate a registration that has been suspended under subsection(e) *after a hearing*, if the board is satisfied that the applicant is able to manufacture, distribute or dispense controlled substances with reasonable skill and safety to the public.” *Id.* § 35–48–3–5(f). (emphasis added). Thus, it appears that Respondents are entitled to a hearing to challenge the underlying allegations before the State board.

Respondents contend that their right to a hearing under section 35–48–3–5(f) “is not triggered until the Indiana Controlled Substances Advisory Committee serves upon the * * * registrant an order to show cause why registration should not be denied, revoked or suspended,” and that “absent such a step, the purported suspension issued by the board * * * is a nullity, and cannot form the basis for a federal suspension.” Surreply at 2 (citing Ind. Code § 35–48–3–6(a)).⁵ Respondents further argue that “[i]f it could, then the Indiana Advisory Committee could avoid the hearing provision on which the Government relies solely by not issuing the show cause notice.” *Id.*

Beyond the fact that Respondents’ argument appears to be based on the speculative premise that the Indiana authorities will attempt to prevent them from obtaining a hearing, the Indiana statute makes clear that Respondents are entitled to a hearing. Presumably, the Indiana courts are open and can provide an appropriate remedy in the event the state board refuses to provide Respondents with a hearing. See Ind. Code § 34–27–3–1 (“An action for mandate may be prosecuted against any inferior tribunal * * * public * * * officer, or person to compel the performance of any * * * act that the law specifically requires[.]”).

Moreover, the question of whether the Indiana suspensions are a nullity because the State did not serve Respondents with a Show Cause Order is an issue of state law and for the Indiana courts to decide. As such, it is outside the scope of this proceeding. See *George S. Heath, M.D.*, 51 FR 26610 (1986) (“DEA accepts as valid and

lawful the action of a state regulatory board unless that action is overturned by a state court or otherwise pursuant to state law. * * * The [DEA] will not consider a challenge to the lawfulness of a Georgia Board Order. Such a challenge must be made in another forum.”); see also *Shahid Musud Siddiqui, M.D.*, 61 FR 14818, 14818–19 (DEA 1996) (A “DEA administrative proceeding is not an appropriate forum for wholesale review of state criminal and administrative actions taken by the State of New York arising out of the laws of the State of New York. To allow it to be so would be to permit a wide collateral attack upon such convictions.”) (int. quotations and citation omitted).

Finally, Respondents argue that the suspensions of their state CSRs are invalid because they were suspended by the MLB and only the Pharmacy Board has authority under state law to suspend their registrations. However, the Pharmacy Board’s May 27, 2010 letter makes clear that it (and not the MLB) was suspending Respondent PMSC’s registration, and even if Respondent Tiwari’s controlled substance registration was suspended by the MLB, the validity of this action is also a question of state law and for the Indiana courts to decide. *Riba*, 73 FR at 75774; *Heath*, 51 FR at 26610.

Because there is no dispute over the material fact that each Respondent’s Indiana controlled substance registration has been suspended, each is without authority to hold a DEA registration.⁶ See 21 U.S.C. 802(21). Accordingly, Respondents’ registrations will be revoked and any pending applications will be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I order that DEA Certificate of Registration, BT2936411, issued to Respondent Kamal Tiwari, M.D., and DEA Certificate of Registration, BP4917413, issued to Respondent Pain Management and Surgery Center of Southern Indiana, be, and they hereby are, revoked. I further order that any pending applications of Kamal Tiwari, M.D. and Pain Management and Surgery Center of Southern Indiana, to renew or modify such registrations, be, and they hereby

are, denied. This Order is effective immediately.⁷

Dated: November 8, 2011.

Michele M. Leonhart,
Administrator.

[FR Doc. 2011–29708 Filed 11–17–11; 8:45 am]

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DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0008]

Agency Information Collection Activities: Proposed Collection, Comments Requested; Extension of a Currently Approved Collection; Monthly Return of Arson Offenses Known to Law Enforcement

ACTION: 30-day Notice of Information Collection Under Review.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on September 15, 2011, Volume 76, Number 179, Page 57081, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 19, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mr. Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

⁷ For the same reason that I ordered that the Respondents’ registration be immediately suspended, I conclude that the public interest necessitates that this Order be effective immediately. See 21 CFR 1316.67.

⁵ This provision states:

Before recommending a denial, suspension, or revocation of a registration, or before refusing a renewal of registration, the board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended * * *. The order to show cause shall contain a statement of the basis therefor [sic] and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty (30) days after the date of service of the order * * *.

⁶ Where, as here, no material fact is in dispute, there is no need for an evidentiary hearing and summary disposition is appropriate. See *Michael G. Dolin, M.D.*, 65 FR 5661 (2000); see also *Philip E. Kirk, M.D.*, 48 FR 32887 (1983), *aff’d sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of 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 of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Monthly Return of Arson Offenses Known to Law Enforcement.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number 1-725; Sponsor: 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: City, county, state, federal and tribal law enforcement agencies. Brief Abstract: This form collects information on arson incidents committed throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,108 law enforcement agency respondents that submit monthly for a total of 217,296 responses with an estimated response time of 9 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 32,594 hours, annual burden, associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street

NE., Room 2E-508, Washington, DC 20530.

Jerri Murray,

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

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-018 and 52-019; NRC-2008-0170; Docket Nos. 52-022 and 52-023; NRC-2008-0231; Docket Nos. 52-029 and 52-030; NRC-2008-0558; Docket Nos. 52-040 and 52-041; NRC-2009-0337]

Notice of Availability of Combined License Applications

ACTION: Combined license applications; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice once each week for four consecutive weeks of combined license (COL) applications from Progress Energy Florida, Inc., Duke Energy Carolinas, LLC, Progress Energy Carolinas, Inc., and Florida Power & Light Company.

ADDRESSES: You can access publicly available documents related to this action using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-(800) 397-4209, (301) 415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession numbers for the initial application cover letters are as follows: ML073510494 for William States Lee III Nuclear Station Units 1 and 2, ML080580078 for Shearon Harris Nuclear Power Plant Units 2 and 3; ML082260277 for Levy Nuclear Plant Units 1 and 2; and ML091830589 for Turkey Point Units 6 and 7.

- *Federal Rulemaking Web site:* Public comments and supporting materials related to this action can be

found at <http://www.regulations.gov> by searching on Docket ID NRC-2008-0170 (William States Lee III Nuclear Station Units 1 and 2), NRC-2008-0231 (Shearon Harris Nuclear Power Plant Units 2 and 3), NRC-2008-0558 (Levy Nuclear Plant Units 1 and 2), and NRC-2009-0337 (Turkey Point Units 6 and 7). Address questions about NRC dockets to Carol Gallagher, *telephone:* (301) 492-3668; *email:* Carol.Gallagher@nrc.gov.

The applications are also available at <http://www.nrc.gov/reactors/new-reactors/col.html>.

FOR FURTHER INFORMATION CONTACT: Donald Habib, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, *telephone:* (301) 415-1035, *email:* Donald.Habib@nrc.gov.

SUPPLEMENTARY INFORMATION: The following parties have filed applications for COLs with the NRC, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants:"

1. On December 12, 2007, Duke Energy Carolinas, LLC, submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as William States Lee III Nuclear Station Units 1 and 2 in Cherokee County, South Carolina.

2. On February 18, 2008, Progress Energy Carolinas, Inc., submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Shearon Harris Nuclear Power Plant Units 2 and 3 in Wake County, North Carolina.

3. On July 28, 2008, Progress Energy Florida, Inc., submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Levy Nuclear Plant Units 1 and 2 in Levy County, Florida.

4. On June 30, 2009, Florida Power & Light Company submitted an application for COLs for two AP1000 advanced passive pressurized water reactors designated as Turkey Point Units 6 and 7 in Miami-Dade County, Florida.

These four applications are currently under review by the NRC staff.

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).