## INTERNATIONAL TRADE COMMISSION

**[USITC SE–12–004]**

### Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** February 14, 2012 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**Matters To Be Considered**

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. 731–TA–539–C (Third Review) (Uranium from Russia). The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before February 24, 2012.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:
Issued: February 7, 2012.

**James R. Holbein,**

*Secretary to the Commission.*

[FR Doc. 2012–3238 Filed 2–8–12; 4:15 pm]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Clean Water Act (''CWA'')

Notice is hereby given that on February 6, 2012 a proposed Consent Decree (''Decree'') in *United States* v. *Union Pacific Railroad Company* (''UP''), Civil Action No. 1:12–cv–00284–REB was lodged with the United States District Court for the District of Colorado.

In this action the United States on behalf of the Environmental Protection Agency (''EPA'') filed a complaint against Union Pacific Railroad Company seeking permanent injunctive relief and civil penalties under the Clean Water Act (''CWA''), 33 U.S.C. 1251–1387, resulting from unauthorized discharge of oil and coal from railcars and locomotives it owned and operated in Colorado, Utah, and Wyoming into the waters of the United States or adjoining shorelines, the failure to comply with Spill Prevention, Control and Countermeasure (''SPCC'') and Facility Response Plan (''FRP'') regulations issued under Section 311(j) of the CWA, 33 U.S.C. 1321(j), at railyards it owns and operates in the Colorado, Utah and Wyoming, and the failure to comply with CWA storm water discharge permits for railyards it owns and operates in Utah.

The Decree requires that within sixty (60) days upon the Effective Date, the Defendant shall provide documentation to EPA demonstrating that the SPCC Plan deficiencies alleged in the Complaint have been corrected. It also requires Defendant to perform various compliance projects related to its SPCC violations at railyards in Colorado, Utah and Wyoming pursuant to an expeditious schedule. Defendant must also correct deficiencies in its FRP at the Rawlins, Wyoming railyard, and conduct monitoring at all railyards to ensure SPCC and FRP compliance. In addition, the Decree requires the Defendant to pay within thirty (30) days the sum of $1.5 million as a civil penalty, together with interest accruing from the date on which the Consent Decree is lodged with the court.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or emailed to *pubcomment-ees.enrd@usdoj.gov.* The comments should refer to *United States* v. *Union Pacific Railroad Company,* D.J. Ref. 90–5–1–1–09194.

During the public comment period, the Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decree.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or emailing a request to ''Consent Decree Copy'' *EESCDCopy.ENRD@USDOJ.gov,* fax number 202–514–0097, phone confirmation number: 202–514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $10.00 (.25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, please forward a check in that amount to the Consent Decree Library at the address given above.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2012–3092 Filed 2–9–12; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 12–09]**

### Scott W. Houghton, M.D.; Decision and Order

On November 4, 2011, Chief Administrative Law Judge (ALJ) John J. Mulrooney, II, issued the attached recommended decision. Neither party filed exceptions to the decision. Having reviewed the entire record, I have decided to adopt the ALJ's rulings, findings of fact, conclusions of law, and recommended Order.

**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), I order that DEA Certificate of Registration BH8796077, issued to Scott W. Houghton, M.D., be, and it hereby is, revoked. I further order that any pending application of Scott W. Houghton, M.D., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.[1]

Dated: February 1, 2012.

**Michele M. Leonhart,**

*Administrator.*

*Carrie Bland, Esq.,* for the Government.
*R. Cornelius Danaher, Jr., Esq.,* for the Respondent.

**Order Granting Summary Disposition and Recommended Decision**

Chief Administrative Law Judge John J. Mulrooney, II. The Deputy Assistant Administrator, Drug Enforcement Administration (DEA or Government), issued an Order to Show Cause (OSC), dated September 27, 2011, proposing to revoke the DEA Certificate of Registration (COR), Number BH8796077, Scott W. Houghton, M.D. (Respondent), pursuant to 21 U.S.C. § 824(a)(3) and (4) (2006). In the OSC, the Government alleges that Respondent is ''currently without authority to handle controlled substances in the [s]tate of Connecticut,'' and that, as such, Respondent's continued registration is inconsistent with the public interest as that

[1] Based on the State's Immediate Suspension of Respondent's Connecticut Controlled Substances Registration, I conclude that the public interest requires that this Order be effective immediately. 21 CFR 1316.67.

term is used in 21 U.S.C. § 823(f) (2006 & Supp. III 2010).[1] OSC at 1.

On October 26, 2011, the Respondent, through counsel, timely filed a request for hearing coupled with a request for a continuance. An order issued that day which denied the Respondent's continuance request and set a briefing schedule on the issue of whether he possessed state authority to possess controlled substances. The parties timely complied. On October 28, 2011, the Government filed a document styled ''Government's Motion for Summary Disposition'' (Motion for Summary Disposition) and on November 4, 2011, the Respondent filed his reply (Respondent's Reply).

The Government's Motion for Summary Disposition attached a copy of a February 3, 2010 Order of Immediate Suspension of Controlled Substance Registration (Suspension Order) issued by the Commissioner of the Connecticut Department of Consumer Protection, as well as an August 13, 2011 Interim Consent Order, executed by the Respondent and an official of the Connecticut Department of Health, which memorialized the former's suspension and surrender of his state license to practice medicine. Both parties agree that the Respondent is currently without authorization to practice medicine and handle controlled substances in Connecticut, the jurisdiction where he holds the DEA COR that is the subject of this litigation. Although the Respondent does not contest the current status of his state license and lack of authorization to handle controlled substances, in his Reply, he has stresses his intention to contest these issues before the Connecticut authorities in the future. Reply at 2.

The Controlled Substances Act (CSA) requires that a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. § 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''); *see also id.* § 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). Therefore, because ''possessing authority under state law to handle controlled substances is an essential condition for holding a DEA registration,'' this Agency has consistently held that ''the CSA requires the revocation of a registration issued to a practitioner who lacks [such authority].'' *Roy Chi Lung,* 74 FR 20346, 20347 (2009); *Scott Sandarg, D.M.D.,* 74 FR 17528, 174529 (2009); *John B. Freitas, D.O.,* 74 FR 17524, 17525 (2009); *Roger A. Rodriguez, M.D.,* 70 FR 33206, 33207 (2005); *Stephen J. Graham, M.D.,* 69 FR 11661 (2004); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Abraham A. Chaplan, M.D.,* 57 FR 55280 (1992); *Bobby Watts, M.D.,* 53 FR 11919 (1988); *see also Harrell E. Robinson,* 74 FR 61370, 61375 (2009).

In order to revoke a registrant's DEA registration, the DEA has the burden of proving that the requirements for revocation are satisfied. 21 C.F.R. § 1301.44(e). Once DEA has made its *prima facie* case for revocation of the registrant's DEA COR, the burden of production then shifts to the Respondent to show that, given the totality of the facts and circumstances in the record, revoking the registrant's registration would not be appropriate. *Morall v. DEA,* 412 F.3d 165, 174 (DC Cir. 2005); *Humphreys v. DEA,* 96 F.3d 658, 661 (3d Cir. 1996); *Shatz v. U.S. Dept. of Justice,* 873 F.2d 1089, 1091 (8th Cir. 1989); *Thomas E. Johnston,* 45 FR 72311 (1980).

Regarding the Government's motion, summary disposition of an administrative case is warranted where, as here, ''there is no factual dispute of substance.'' *See Veg-Mix, Inc.,* 832 F.2d 601, 607 (DC Cir. 1987) (''an agency may ordinarily dispense with a hearing when no genuine dispute exists''). A summary disposition would likewise be warranted even if the period of suspension were temporary, or if there were (as he avers) the potential that Respondent's state controlled substances privileges could be reinstated, because ''revocation is also appropriate when a state license has been suspended, but with the possibility of future reinstatement,'' *Rodriguez,* 70 FR at 33207 (citations omitted), and even where there is a judicial challenge to the state medical board action actively pending in the state courts. *Michael G. Dolin, M.D.,* 65 FR 5661, 5662 (2000). It is well-settled that where no genuine question of fact is involved, or when the material facts are agreed upon, a plenary, adversarial administrative proceeding is not required, *see Jesus R. Juarez, M.D.,* 62 FR 14945 (1997); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993), under the rationale that Congress does not intend for administrative agencies to perform meaningless tasks. *See Philip E. Kirk, M.D.,* 48 FR 32887 (1983), *aff'd sub nom. Kirk v. Mullen,* 749 F.2d 297 (6th Cir. 1984); *see also Puerto Rico Aqueduct & Sewer Auth. v. EPA,* 35 F.3d 600, 605 (1st Cir. 1994); *NLRB v. Int'l Assoc. of Bridge, Structural & Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977); *United States v. Consol. Mines & Smelting Co.,* 455 F.2d 432, 453 (9th Cir. 1971).

At this juncture, no genuine dispute exists over the established material fact that Respondent currently lacks state authority to handle controlled substances. Because the Respondent lacks such state authority, both the plain language of applicable federal statutory provisions and Agency interpretive precedent dictate that the Respondent is not entitled to maintain his DEA registration. Simply put, there is no contested factual matter adducible at a hearing that can provide me with authority to continue his entitlement to a COR under the circumstances. I therefore conclude that further delay in ruling on the Government's motion for summary disposition is not warranted. *See Gregory F. Saric, M.D.,* 76 FR 16821 (2011) (stay denied in the face of Respondent's petition based on pending state administrative action wherein he was seeking reinstatement of state privileges).

Accordingly, I hereby

**GRANT** the Government's Motion for Summary Disposition;

**DENY** the Government's Motion for Stay of Proceedings as moot;

and further **RECOMMEND** that the Respondent's DEA registration be **REVOKED** forthwith and any pending applications for renewal be **DENIED.**

Dated: November 4, 2011.

**John J. Mulrooney, II,**

*Chief Administrative Law Judge.*

[FR Doc. 2012–3057 Filed 2–9–12; 8:45 am]

**BILLING CODE 4410–09–P**

[1] Interestingly, lack of state authority is the only ground for which the Government's charging document has supplied a factual basis. Beyond the issue of state authority, no factual basis has been included that would provide the Respondent with notice as to why his continued registration might be inconsistent with the public interest.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### Public Availability of the National Aeronautics and Space Administration FY 2011 Service Contract Inventory

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Public Availability of Analysis of the FY 2010 Service Contract Inventories and the FY 2011 Service Contract Inventories.

**SUMMARY:** In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), National Aeronautics and Space Administration (NASA) is publishing this notice to advise the public of the availability of its analysis of FY 2010 Service Contract inventory and the FY 2011 Service Contract Inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). NASA has posted its analysis of the FY 2010 inventory, the FY 2011 inventory and a summary of the FY 2011 inventory on the NASA Office of Procurement homepage at the following link: *http://www.hq.nasa.gov/office/procurement/scinventory/index.html.*