

The Government also submitted a Certification of Registration History, which was sworn to on December 19, 2017. GX 1, at 3. In that Certification, the Associate Chief of the Registration and Program Support Section stated that DEA Registration No. BR7006085 “expires on April 30, 2018.” *Id.* at 1–2. The Associate Chief further stated that “Greg N. Rampey, M.D., has no other pending or valid DEA registration(s) in Oklahoma.” *Id.* at 3. Pursuant to 5 U.S.C. 556(e), I take official notice of Registrant’s registration record with the Agency. *See also* 21 CFR 1316.59(e).<sup>1</sup> According to that record, DEA Registration No. BR7006085 expired on April 30, 2018, and Registrant has not filed an application, whether timely or not, to renew his registration or for any other registration in the State of Oklahoma.<sup>2</sup>

DEA has long held that “if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.” *Donald Brooks Reece II, M.D.*, 77 FR 35054, 35055 (2012) (quoting *Ronald J. Riegel*, 63 FR 67312, 67133 (1998)); *see also Thomas E. Mitchell*, 76 FR 20032,

<sup>1</sup> Under the Administrative Procedure Act (APA), an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” U.S. Dept. of Justice, *Attorney General’s Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA’s regulations, Registrant is “entitled on timely request to an opportunity to show to the contrary.” 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed.

<sup>2</sup> As already noted, my office received the Government’s Second Request for Final Agency Action on March 29, 2018. This filing arrived in my office too late for me to issue a final decision and order before the registration would expire on April 30, 2018. DEA regulation 21 CFR 1316.67 requires that I issue a final order that takes effect not less than 30 days from the date of publication in the **Federal Register** unless the public interest necessitates an earlier effective date. The record before me fails to include facts supporting a finding that “the public interest in the matter necessitates an earlier effective date.” 21 CFR 1316.67. Thus, even if I had submitted a final order in this case to the **Federal Register** on the same day (March 29, 2018) that my office received the SRFAA to revoke Registrant’s registration, I could not have issued an order that would have taken effect by April 30, 2018 because the **Federal Register** would not have been able to publish it 30 days before the registration’s April 30, 2018 expiration—*i.e.*, by Saturday, March 31, 2018. And as the Agency has previously noted, there is no point in issuing a ruling on a Show Cause Order where, as here, that ruling would constitute an advisory opinion subject to vacation on judicial review. *See, e.g., Josip Pasic, M.D.*, 82 FR 24146, 24147 (2017) (“As the requested factual findings and legal conclusions would be subject to vacation on judicial review, there is no point in making them.”).

20033 (2011). “Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon.” *Reece*, 77 FR at 35055. Accordingly, because Registrant has allowed his registration to expire and has not filed any application for registration in Oklahoma, this case is now moot and will be dismissed.

#### Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that the Order to Show Cause issued to Greg N. Rampey, D.O., be, and it hereby is, dismissed. This Order is effective immediately.

Dated: August 14, 2018.

**Uttam Dhillon,**

*Acting Administrator.*

[FR Doc. 2018–18267 Filed 8–22–18; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed First Amendment of Consent Decree Under the Clean Air Act

On August 15, 2018, the Department of Justice lodged a proposed First Amendment of Consent Decree (“First Amendment”) with the United States District Court for the District of Nevada in the lawsuit entitled *United States v. Nevada Cement Company, Inc.*, Civil Action No. 3:17–cv–302.

This case involves claims for alleged violations of the Prevention of Significant Deterioration program of the Clean Air Act and related state law requirements against the Nevada Cement Company at its Fernley, Nevada, Portland cement facility. The original Consent Decree resolving the dispute included injunctive relief for installation of control technology to reduce emissions of nitrogen oxides (NO<sub>x</sub>), civil penalties, and mitigation of past excess NO<sub>x</sub> emissions. The proposed First Amendment, if approved by the Court, would change the requirements in the original Consent Decree from Selective Non-Catalytic Reduction control technology to Selective Catalytic Reduction control technology for NO<sub>x</sub> emissions, and would require greater reductions in NO<sub>x</sub>, yielding a net NO<sub>x</sub> emission reduction over the life of the Consent Decree as compared to the original Consent Decree.

The publication of this notice opens a period for public comment on the First Amendment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to

*United States v. Nevada Cement, Inc.*, D.J. Ref. No. 90–5–2–1–10458. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the First Amendment may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the First Amendment upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$3.25 (25 cents per page reproduction cost) payable to the United States Treasury.

**Henry Friedman,**

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

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request: H–2A Recordkeeping Requirement

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL or Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly