

(b) In making his determinations, the Administrator shall consider the following factors:

(1) Total net disposal of the class by all manufacturers during the current and 2 preceding years;

(2) Trends in the national rate of net disposal of the class;

(3) Total actual (or estimated) inventories of the class and of all substances manufactured from the class, and trends in inventory accumulation;

(4) Projected demand for such class as indicated by procurement quotas requested pursuant to § 1303.12;

(5) The extent of any diversion of the controlled substance in the class;

(6) Relevant information obtained from the Department of Health and Human Services, including from the Food and Drug Administration, the Centers for Disease Control and Prevention, and the Centers for Medicare and Medicaid Services, and relevant information obtained from the states; and

(7) Other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires.

(c) The Administrator shall, on or before May 1 of each year, publish in the FEDERAL REGISTER, general notice of an aggregate production quota for any basic class determined by him under this section. A copy of said notice shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class and transmitted to each state attorney general. The Administrator shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice the time during which such filings may be made. The Administrator may, but shall not be required to, hold a public hearing on

one or more issues raised by the comments and objections filed with him, except that the Administrator shall hold a hearing if he determines it is necessary to resolve an issue of material fact raised by a state objecting to the proposed quantity for the class as excessive for legitimate United States' needs. In the event the Administrator decides to hold a hearing, he shall publish notice of the hearing in the FEDERAL REGISTER, which notice shall summarize the issues to be heard and shall set the time for the hearing, which shall not be less than 30 days after the date of publication of the notice. After consideration of any comments or objections, or after a hearing if one is ordered by the Administrator, the Administrator shall issue and publish in the FEDERAL REGISTER his final order determining the aggregate production quota for the basic class of controlled substances. The order shall include the findings of fact and conclusions of law upon which the order is based. The order shall specify the date on which it shall take effect. A copy of said order shall be mailed simultaneously to each person registered as a bulk manufacturer of the basic class and transmitted to each state attorney general.

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#### § 1303.12 Procurement quotas.

(a) In order to determine the estimated needs for, and to insure an adequate and uninterrupted supply of, basic classes of controlled substances listed in Schedules I and II (except raw opium being imported by the registrant pursuant to an import permit) the Administrator shall issue procurement quotas authorizing persons to procure and use quantities of each basic class of such substances for the purpose of manufacturing such class into dosage forms or into other substances.

(b) Any person who is registered to manufacture controlled substances listed in any schedule and who desires to use during the next calendar year any basic class of controlled substances listed in Schedule I or II (except raw opium being imported by the registrant

pursuant to an import permit) for purposes of manufacturing, shall apply on DEA Form 250 for a procurement quota for such basic class. A separate application must be made for each basic class desired to be procured or used. The applicant shall state whether he intends to manufacture the basic class himself or purchase it from another manufacturer. The applicant shall state separately each purpose for which the basic class is desired, the quantity desired for that purpose during the next calendar year, and the quantities used and estimated to be used, if any, for that purpose during the current and preceding 2 calendar years. If the purpose is to manufacture the basic class into dosage form, the applicant shall state the official name, common or usual name, chemical name, or brand name of that form. The Administrator may require additional information from an applicant which, in the Administrator's judgment, may be helpful in detecting or preventing diversion, including customer identities and amounts of the controlled substance sold to each customer. If the purpose is to manufacture another substance, the applicant shall state the official name, common or usual name, chemical name, or brand name of the substance, and, if a controlled substance listed in any schedule, the schedule number and Administration Controlled Substances Code Number, as set forth in part 1308 of this chapter, of the substance. If the purpose is to manufacture another basic class of controlled substance listed in Schedule I or II, the applicant shall also state the quantity of the other basic class which the applicant has applied to manufacture pursuant to §1303.22 and the quantity of the first basic class necessary to manufacture a specified unit of the second basic class. DEA Form 250 shall be filed on or before April 1 of the year preceding the calendar year for which the procurement quota is being applied. Copies of DEA Form 250 may be obtained from, and shall be filed with, the UN Reporting and Quota Section, Diversion Control Division. See the Table of DEA Mailing Addresses in §1321.01 of this chapter for the current mailing address.

(c) The Administrator shall, on or before July 1 of the year preceding the calendar year during which the quota shall be effective, issue to each qualified applicant a procurement quota authorizing him to procure and use:

(1) All quantities of such class necessary to manufacture all quantities of other basic classes of controlled substances listed in Schedules I and II which the applicant is authorized to manufacture pursuant to §1303.23; and

(2) Such other quantities of such class as the applicant has applied to procure and use and are consistent with his past use, his estimated needs, and the total quantity of such class that will be produced.

(d) Any person to whom a procurement quota has been issued may at any time request an adjustment in the quota by applying to the Administrator with a statement showing the need for the adjustment. Such application shall be filed with the UN Reporting and Quota Section, Diversion Control Division. See the Table of DEA Mailing Addresses in §1321.01 of this chapter for the current mailing address. The Administrator shall increase or decrease the procurement quota of such person if and to the extent that he finds, after considering the factors enumerated in paragraph (c) of this section and any occurrences since the issuance of the procurement quota, that the need justifies an adjustment.

(e) The following persons need not obtain a procurement quota:

(1) Any person who is registered to manufacture a basic class of controlled substance listed in Schedule I or II and who uses all of the quantity he manufactures in the manufacture of a substance not controlled under the Act;

(2) Any person who is registered or authorized to conduct chemical analysis with controlled substances (for controlled substances to be used in such analysis only); and

(3) Any person who is registered to conduct research with a basic class of controlled substance listed in Schedule I or II and who is authorized to manufacture a quantity of such class pursuant to §1301.13 of this chapter.

(f) Any person to whom a procurement quota has been issued, authorizing that person to procure and use a

quantity of a basic class of controlled substances listed in Schedules I or II during the current calendar year, shall, at or before the time of giving an order to another manufacturer requiring the distribution of a quantity of such basic class, certify in writing to such other manufacturer that the quantity of such basic class ordered does not exceed the person's unused and available procurement quota of such basic class for the current calendar year. The written certification shall be executed by the same individual who signed the DEA Form 222 transmitting the order. Manufacturers shall not fill an order from persons required to apply for a procurement quota under paragraph (b) of this section unless the order is accompanied by a certification as required under this section. The certification required by this section shall contain the following: The date of the certification; the name and address of the bulk manufacturer to whom the certification is directed; a reference to the number of the DEA Form 222 to which the certification applies; the name of the person giving the order to which the certification applies; the name of the basic class specified in the DEA Form 222 to which the certification applies; the appropriate schedule within which is listed the basic class specified in the DEA Form 222 to which the certification applies; a statement that the quantity (expressed in grams) of the basic class specified in the DEA Form 222 to which the certification applies does not exceed the unused and available procurement quota of such basic class, issued to the person giving the order, for the current calendar year; and the signature of the individual who signed the DEA Form 222 to which the certification applies.

[36 FR 7786, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1303.12, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

#### **§ 1303.13 Adjustments of aggregate production quotas.**

(a) The Administrator may at any time increase or reduce the aggregate production quota for a basic class of

controlled substance listed in Schedule I or II which he has previously fixed pursuant to § 1303.11.

(b) In determining to adjust the aggregate production quota, the Administrator shall consider the following factors:

(1) Changes in the demand for that class, changes in the national rate of net disposal of the class, changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class, and changes in the extent of any diversion in the class;

(2) Whether any increased demand for that class, the national and/or individual rates of net disposal of that class are temporary, short term, or long term;

(3) Whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation, without increasing the aggregate production quota, taking into account production delays and the probability that other individual manufacturing quotas may be suspended pursuant to § 1303.24(b);

(4) Whether any decreased demand for that class will result in excessive inventory accumulation by all persons registered to handle that class (including manufacturers, distributors, practitioners, importers, and exporters), notwithstanding the possibility that individual manufacturing quotas may be suspended pursuant to § 1303.24(b) or abandoned pursuant to § 1303.27;

(5) Other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires.

(c) The Administrator in the event he determines to increase or reduce the aggregate production quota for a basic