

meeting will begin at 9 a.m. Persons unable to attend the meeting are invited to provide written comments, which must be received on or before April 4, 2000.

**ADDRESSES:** The public meeting will be held at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 in the 3rd floor auditorium. Persons unable to attend the meeting may mail their comments in duplicate to: U.S. Department of Transportation Dockets, Docket No. FAA-1999-6673, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: <http://dms.dot.gov/> at anytime. Commenters who wish to file comments electronically, should follow the instructions on the DMS web site. Comments may be filed and/or examined at the U.S. Department of Transportation Dockets, Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Judy Courbois, Federal Aviation Administration, Office of Rulemaking, ARM-102, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9783; fax (202) 267-5075. Questions concerning the subject matter of the meeting should be directed to Scott Cummings, Office of Civil Aviation Security Policy and Planning (ACP-100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9468; fax (202) 267-5359.

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued "Certification of Screening Companies, Notice of Proposed Rulemaking," on December 15, 1999, proposing procedures for certification of screening companies; and proposing other requirements to improve screening, such as performance measurements and new training and FAA testing requirements for screeners. The FAA is announcing this public meeting to give the public an additional opportunity to comment on the proposed rule.

**Participation at the Meeting**

The FAA should receive requests from persons who wish to present oral statements at the meeting no later than

February 24, 2000. Such requests should be submitted to Judy Courbois, as listed above in the section titled **FOR FURTHER INFORMATION CONTACT**, and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. The FAA will prepare an agenda of speakers, which will be available at the meeting. The names of those individuals whose requests to present oral statements are received after the date specified above may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

**Public Meeting Procedures**

The FAA will use the following procedures to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are scheduled to present statements or who register between 8:30 a.m. and 9 a.m. on the day of the meeting. While the FAA will make every effort to accommodate all persons wishing to participate, admission will be subject to availability of space in the meeting room. The meeting may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meeting.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(3) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(4) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

(5) Representatives of the FAA will preside over the meeting. A panel of FAA personnel involved in this proposal will be present.

(6) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the FAA representatives during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript

should contact the court reporter directly. Additional transcript purchase information will be available at the meeting.

(7) The FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or arguments related to the certification of screening companies may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide six copies of all materials to be presented for distribution to the FAA representatives; other copies may be provided to the audience at the discretion of the participant.

(8) Statements made by FAA representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by an FAA representative is not intended to be, and should not be construed as, a position of the FAA.

(9) The meeting is designed to solicit public views and gather additional information on the certification of screening companies. Therefore, the meeting will be conducted in an informal and non-adversarial manner. No individual will be subject to cross-examination by any other participant; however, FAA representatives may ask questions to clarify a statement and to ensure a complete and accurate record.

Issued in Washington, DC on January 27, 2000.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

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**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**21 CFR Part 1310**

[DEA Number 198]

**Possible Control of Red Phosphorus as a Listed Chemical**

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Advance notice of proposed rulemaking; Request for comments.

**SUMMARY:** The Controlled Substances Act (CSA), provides the Attorney General Authority to specify by regulation, additional precursor and essential chemicals as "listed chemicals" if they are used in the manufacture of controlled substances in violation of the CSA. This notice

provides advance notification that the United States Drug Enforcement Administration (DEA) is considering the possible control of red phosphorus as a listed chemical.

Red phosphorus has been identified as being an important chemical used in the illicit production of methamphetamine. DEA is considering whether CSA chemical regulatory controls (such as registration, recordkeeping, reporting, and import/export requirements) are necessary to prevent the diversion of red phosphorus to clandestine drug laboratories.

Prior to deciding whether to control red phosphorus as a listed chemical, the DEA is seeking information on red phosphorus trade so that diversion of red phosphorus may be prevented with minimal impact on legitimate trade. The DEA is soliciting information on the manufacturing, distribution, consumption, storage, disposal, and uses of red phosphorus.

**DATES:** Written comments must be received on or before April 3, 2000.

**ADDRESSES:** Comments should be submitted in quintuplicate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCR.

**FOR FURTHER INFORMATION CONTACT:** Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307-7183.

#### **SUPPLEMENTARY INFORMATION:**

#### **What Is the Purpose of This Notice?**

The Controlled Substances Act (CSA), specifically 21 U.S.C. sections 802(34) and (35); 21 CFR 1310.02(c), provides the Attorney General with the authority to specify, by regulation, additional precursor and essential chemicals as "listed chemicals" if they are used in the manufacture of controlled substances in violation of the CSA. This authority has been delegated to the Administrator of DEA by 28 CFR 0.100 and redelegated to the Deputy Administrator under 28 CFR 0.104 (Subpart R) Appendix Sec. 12.

This notice provides advance notification that the U.S. Drug Enforcement Administration is considering the control of red phosphorus as a listed chemical. Red phosphorus has been identified as being an important chemical used in the illicit production of methamphetamine. The public health consequences of the manufacture, trafficking, and abuse of

methamphetamine are well known and documented.

#### **What Regulatory Controls Currently exist on Red Phosphorus?**

Since red phosphorus is a common chemical used in methamphetamine production, it has already been placed on the Attorney General's "special surveillance list" of "laboratory supplies". The Comprehensive Methamphetamine Control Act of 1996 (MCA) amended the CSA via the addition of 21 U.S.C. 842(a)(11), which makes it unlawful for any person to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, with reckless disregard for the illegal uses to which such laboratory supply will be put.

The MCA defines "laboratory supply" as a "listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals." This special surveillance list was published by DEA on May 13, 1999 (64 FR 25910) and includes red phosphorus.

#### **What Additional Action is DEA Considering?**

Due to the continued use of red phosphorus in illicit methamphetamine synthesis, the DEA is considering whether to place additional controls on red phosphorus, by adding red phosphorus as a listed chemical. As such, red phosphorus would be subject to additional CSA regulatory controls such as registration, recordkeeping, reporting, and import/export requirements as specified in 21 CFR part 1300. DEA is considering whether these additional regulatory controls are needed to prevent the diversion of red phosphorus to clandestine laboratories.

#### **Why Is DEA Seeking Information?**

DEA is seeking information on red phosphorus trade so that diversion of red phosphorus may be prevented with minimal impact on legitimate trade. DEA is aware that the industrial uses of red phosphorus include the manufacture of pyrotechnics, safety matches, phosphoric acid and other phosphorus compounds, fertilizers, incendiary shells, smoke bombs, tracer bullets, and pesticides. DEA recognizes that regulation of red phosphorus may have some effect upon these, and other, industrial activities. However, DEA is not aware of the entire scope of use of

red phosphorus by industry and consumers.

#### **What Information Does This Notice Seek?**

The DEA is soliciting input from the potentially affected parties regarding (1) the nature of the legitimate phosphorus industry, (2) the legitimate uses of red phosphorus at all levels of distribution (including industrial uses and use by individual end-users at the retail level of distribution), (3) the potential burden such regulatory controls may have on legitimate industry (particularly with respect to the impact on small businesses), (4) the potential number of individuals/firms which may be adversely affected by increased regulatory requirements, and (5) any other information on the manner of manufacturing, distribution, consumption, storage, disposal, and uses of red phosphorus by industry and others. Both quantitative and qualitative data are sought.

Such information may be submitted to the Drug and Chemical Evaluation Section and is requested by April 3, 2000. Information designated as confidential or proprietary will be treated accordingly. The release of confidential business information that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4) (FOIA), is governed by section 310(c) of the CSA (21 U.S.C. 830(c) and the Department of Justice procedures set forth in 28 CFR 16.7.

Dated: January 11, 2000.

**John H. King,**

*Deputy Assistant Administrator, Office of Diversion Control.*

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## **DEPARTMENT OF DEFENSE DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

### **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR PART 21**

### **RIN 2900-A167**

### **New Criteria for Approving Courses for VA Educational Assistance Programs**

**AGENCIES:** Department of Defense, Department of Transportation, Coast Guard, and Department of Veterans Affairs.

**ACTION:** Proposed rule.