public hearing should submit a written request to the above address no later than Friday, March 14, 1997. Since it is expected that only a limited number of requests can be granted, the request should set forth reasons why an oral presentation in addition to written comments would be helpful to consideration of these issues. The request should identify the persons who wish to testify, the subjects to be addressed, the estimated amount of time desired (the maximum is 15 minutes), and the organization represented, phone number, and fax number. If possible, advance copies of testimony should be submitted.

Any questions about this notice may be directed to Joan Countryman at (202) 273–1543.

Dated: February 12, 1997.

Leonidas Ralph Mecham,

Director, Administrative Office of the U.S. Courts.

[FR Doc. 97–4230 Filed 2–20–97; 8:45 am]

BILLING CODE 2210–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

Consistent with the policy set forth in Section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (''CERCLA''), 42 U.S.C. 9622(d)(2)(B), and the Department of Justice regulations at 28 CFR 50.7, notice is hereby given that on January 21, 1997, a proposed Consent Decree was lodged with the United States District Court for the Southern District of Indiana in *United States* v. *Jonathan W. Bankert, Jr., et al.*, Cause No. IP–91–1181C–M/S. This Consent Decree settles claims asserted by the United States pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, for partial reimbursement of response costs incurred by the U.S. Environmental Protection Agency in connection with response actions at the Northside Sanitary Landfill Site in Zionsville, Indiana.

The Department of Justice will receive written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Comments should be directed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Jonathan W. Bankert, Jr., et al.*, DOJ Reference # 90–11–2–48H.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Indiana, U.S. Courthouse, 5th Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, at the Region V offices of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $2.75, (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

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

[FR Doc. 97–4278 Filed 2–20–97; 8:45 am]

BILLING CODE 4410–15–M

Drug Enforcement Administration

[Docket No. 95–29]

Roger D. McAlpin, D.M.D., Grant of Restricted Registration

On March 7, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Roger McAlpin, D.M.D. (Respondent) of Louisville, Kentucky, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest.

By letter dated March 29, 1995, the Respondent, acting *pro se,* timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Louisville, Kentucky on February 21, 1996, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and the Government introduced documentary evidence. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument. On July 3, 1996, Judge Bittner issued her Opinion and Recommended Ruling. Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for a DEA Certificate of Registration should be granted in Schedules III non-narcotic, IV and V subject to various restrictions. On July 22, 1996, the Government filed exceptions to the Recommended Ruling of the Administrative Law Judge, and on August 6, 1996, Judge Bittner transmitted the record of these proceedings, including the Government's exceptions to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in it entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, except as specifically noted below, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge. The Acting Deputy Administrator's adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent received his D.M.D. degree from the University of Kentucky in 1979. Following graduation, Respondent worked for a non-profit dental clinic in California for approximately two years. Over the ensuing years, Respondent practiced dentistry at various times in Kentucky, Illinois and Tennessee.

According to Respondent, he began using cocaine recreationally while in dental school. He testified that he quit using cocaine after graduation, but then resumed using cocaine and other controlled substances in 1981. Respondent quit abusing drugs again after approximately two years and then recommenced his abuse in the late 1980's. According to Respondent, in April 1988 he entered into a 30-day in-patient rehabilitation treatment facility. Following his discharge from the facility, he continued to attend Narcotics Anonymous and Alcoholics Anonymous meetings three to four nights a week. Subsequently, Respondent concluded that he was cured of his addiction, stopped attending support meetings, and broke off all contact with his sponsor.

In 1989, Respondent was working for a dental clinic in Tennessee which was owned by an individual who was not a dentist. In November 1989, the Tennessee Department of Health and Environment, Health Related Boards initiated an investigation of Respondent after receiving a complaint from a local pharmacist that Respondent was possibly overprescribing and distributing controlled substances. A review of Respondent's prescriptions revealed that several of Respondent's patients had received Schedule II

controlled substances at regular intervals; that multiple prescriptions for Schedule II controlled substances were filled by the same individuals at different pharmacies on the same day; and that many of these patients had the same address or interchanged addresses. On March 27, 1990, Tennessee Investigators interviewed Respondent during which Respondent admitted to abusing cocaine in the past and to selling prescriptions. Sometime in 1989, Respondent began writing and selling Schedule II prescriptions for no legitimate medical reason to approximately eight individuals who sold the drugs on the street. Respondent testified at the hearing before Judge Bittner that he needed the money to pay for his daughter's eye surgery and to reimburse the Internal Revenue Service for unpaid taxes. According to Respondent, he sold the prescriptions for approximately nine months and was occasionally using drugs himself during that time.

On March 30, 1990, Respondent surrendered his previous DEA Certificate of Registration. On June 14, 1990, the Tennessee Board of Dentistry (Tennessee Board) revoked Respondent's license to practice dentistry in the State of Tennessee. The Tennessee Board found that Respondent unlawfully prescribed controlled substances for financial gain and violated a provision of Tennessee law which prohibits a licensed dentist from being employed by a non-dentist.

In the meantime, Respondent had applied for and received a dental license in the Commonwealth of Virginia on May 1, 1990. On September 20, 1990, the Virginia Board of Dentistry (Virginia Board) revoked Respondent's license in that state. The Virginia Board found that Respondent's Tennessee license had been revoked for allowing controlled substances to be diverted to the public for illicit use; that Respondent had falsified his Virginia application, in that he denied an addiction to drugs and that he had any complaints pending in any jurisdiction against him; and that Respondent had not finalized a contract with the Caring Dentists Committee of the Virginia Dental Association as required by the Impaired Dentists' Contract he had signed with the Concerned Dentist Committee of the Tennessee Dental Association.

Subsequently, on December 15, 1990, the Kentucky Board of Dentistry (Kentucky Board) conducted a hearing regarding Respondent's license to practice dentistry in that state. The Kentucky Board concluded that Respondent violated state law by engaging in unprofessional conduct culminating in the revocation of his licenses to practice dentistry in Tennessee and Virginia. The Kentucky Board placed Respondent on probation for two years and ordered him to sign a contract with and participate in the impaired dentists program of the Kentucky Dental Association, make quarterly reports to the Kentucky Board regarding his progress in that program, and otherwise comply fully with the Kentucky Dental Practice Act. By the time of the hearing before Judge Bittner, Respondent had completed his probation with the Kentucky Board.

On May 18, 1991, Respondent forged a prescription for 16 dosage units of Lortab 7.5 mg., a Schedule III controlled substance, and attempted to have it filled at a local pharmacy. Respondent testified that he had arrived early at his Narcotics Anonymous meeting that evening and was reading a book in his car when he noticed that the book marker was an old prescription form of a dentist for whom he used to work. He then spontaneously forged the prescription and attempted to have it filled, but never received the drugs because the pharmacist determined that the prescription was forged. On August 15, 1991, Respondent pled guilty in state court to criminal attempt to possess a Schedule IV non-narcotic controlled substance and was sentenced to six months in prison, fined $200.00, and ordered to pay court costs. The sentence was credited four days for time served and then stayed in favor of one year probation and payment of the fine.

Respondent testified at the hearing before Judge Bittner that he has been drug-free since 1990, and that after his 1991 conviction he began seeing a doctor for chemical dependency counseling and drug screening. According to Respondent, he was unable to introduce into evidence any documentation regarding the drug screens and counseling because the doctor has since died. Respondent further testified that he has maintained close contact with a counselor at his church; has been attending Narcotics Anonymous meetings; had been attending Caduceus group meetings, a medical professionals support group, until the group relocated; and has been trying to get invited to join a Caduceus group that meets in Louisville.

A DEA investigator contacted the doctor at the treatment facility where Respondent had received treatment for his addiction from April 10 through May 10, 1988. The doctor indicated to the investigator that he had not had any contact with Respondent since May 10, 1988, other than one telephone call during which Respondent ''sounded grandiose'' causing the doctor to suspect that Respondent had not made a sound recovery. The doctor stated that he would not recommend granting Respondent his DEA registration without evidence of sound recovery.

Respondent testified at the hearing that if his application for DEA registration is granted, he is willing to have whatever conditions/restrictions DEA deems appropriate placed on his registration. He also testified that he is currently paying taxes and that he is repaying the Internal Revenue Service on an arranged payment schedule.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 FR 16,422 (1989).

Regarding factor one, Respondent has had his license to practice dentistry revoked in both Tennessee and Virginia and the Kentucky Board placed his license on probation for two years. While Respondent is not currently authorized to practice dentistry in Tennessee and Virginia, he does now have an unrestricted registration in Kentucky, the state in which he is applying to be registered with DEA. As Judge Bittner noted, ''[w]hile a state license to practice dentistry is a necessary condition for the granting of a DEA registration, it is not dispositive.''

As to factor two, Respondent's experience in dispensing controlled substances, it is undisputed that in 1989, Respondent, motivated solely by financial gain, sold controlled substance prescriptions to approximately eight

individuals over a nine month period for no legitimate medical purpose, and that he attempted to fill a forged prescription for a controlled substance in 1991. Judge Bittner concluded that, ''Respondent's conduct in this respect weighs in favor of a finding that Respondent's registration would be inconsistent with the public interest; however, I found Respondent to be a credible witness and believe his expressions of remorse.''

Regarding factor three, following his attempt to fill a forged prescription for controlled substances, Respondent was convicted in 1991 of criminal attempt to possess a controlled substance. Judge Bittner found that ''[t]his criminal conviction supports the Government's contention that Respondent cannot responsibly handle controlled substances,'' and therefore concluded that ''this factor weighs in favor of a finding that Respondent's registration with the DEA would be inconsistent with the public interest.'' The Acting Deputy Administrator finds however, that while Respondent was charged with obtaining a controlled substance by fraud, he ultimately was convicted of criminal attempt to possess a controlled substance. Therefore, the Acting Deputy Administrator concludes that it appears that Respondent has no conviction record relating to the manufacture, distribution or dispensing of controlled substances.

As to factor four, it is evident from the record that Respondent has violated various laws and regulations relating to controlled substances. By prescribing controlled substances to eight individuals over a nine year period in 1989 for no legitimate medical purpose, Respondent violated 21 U.S.C. 841(a)(1) and 21 CFR 1306.04. He violated various state and Federal laws by self-abusing cocaine and other controlled substances. Further, his attempt to obtain controlled substances by forging a prescription violated 21 U.S.C. 843(a)(3). Judge Bittner concluded that, ''this factor weighs in favor of finding that his reregistration would be inconsistent with the public interest; however, Respondent's most recent misconduct occurred five years before the date of this hearing, and it now appears that Respondent acknowledges his wrongdoing and realizes the consequences of his actions.''

Finally, as to factor five, as Judge Bittner notes, ''[t]here is no dispute that Respondent has had a long history of drug abuse, dating back to 1974.'' Respondent acknowledged at the hearing that he has relapsed in the past following efforts at rehabilitation, however he has been drug-free since 1990, and as of the date of the hearing, continues to strive to maintain his successful rehabilitation. The Acting Deputy Administrator is troubled however, at the lack of evidence in the record regarding Respondent's rehabilitation efforts. In fact, other than Respondent's own testimony, the only other evidence presented was a letter from the doctor who oversaw his treatment in 1988, who stated that, ''(Respondent) sounds grandiose over the phone and I suspect that he does not have a sound recovery.'' However, Judge Bittner noted that she ''was very impressed by Respondent as a witness; he appeared very candid and remarkably straight-forward at the hearing and I credit his testimony that he has been in rehabilitation and has remained drug-free for five years.''

The Administrative Law Judge concluded that Respondent's past history regarding controlled substances is ''dismal'', finding that Respondent ''has abused drugs, including cocaine, throughout most of his adult life, that he sold Schedule II controlled substance prescriptions to approximately eight individuals for no legitimate medical purpose, and that he attempted to pass a forged prescription for a Schedule III controlled substance during a relapse.'' However, in light of her finding that Respondent's testimony regarding his rehabilitation from drug abuse was credible, Judge Bittner concluded that it would not be inconsistent with the public interest to grant Respondent's application for DEA registration. Judge Bittner determined however, that some restrictions were appropriate to protect the public. Accordingly, Judge Bittner recommended that Respondent's registration should be limited to non-narcotic controlled substances in Schedule III and controlled substances in Schedule IV and V; Respondent should be permitted to prescribe, but not administer or otherwise dispense, controlled substances in the above categories; and he should be required to submit a log of his prescriptions to the nearest DEA resident office for review every three months for two years from the date of issuance of his registration.

The Government filed exceptions to the Recommended Ruling of the Administrative Law Judge. The Government argued that ''the record in this proceeding, specifically Respondent's past abuse of prescribing privileges and the absence of evidence regarding Respondent's rehabilitation, supports denial of Respondent's application for DEA registration.'' The Government further argued that, ''should the Acting Deputy Administrator decide to adopt the recommended ruling of the administrative law judge, the Government requests that Respondent also be restricted from prescribing any controlled substance to himself or to members of his immediate family.''

The Acting Deputy Administrator concludes that the evidence in the record raises serious questions regarding Respondent's fitness to possess a DEA registration based upon Respondent's prescribing of controlled substances in 1989 purely for financial gain and not for any legitimate medical reason, his self-abuse of controlled substances from at least 1974 to 1990, and his attempt to obtain controlled substances by forging a prescription. Nevertheless, the Acting Deputy Administrator notes that there is no evidence of any wrongdoing since 1991, and Judge Bittner found Respondent to be credible in his expressions of remorse and assertions regarding his rehabilitative efforts. Thus, the Acting Deputy Administrator concludes that it would not be inconsistent with the public interest to grant Respondent a DEA registration. However, the Acting Deputy Administrator is concerned by the lack of evidence in the record regarding Respondent's rehabilitative efforts, other than Respondent's own testimony, and therefore, concludes that additional restrictions beyond those recommended by the Administrative Law Judge are necessary to protect the public interest. Accordingly, the Acting Deputy Administrator concludes that Respondent should be issued a limited DEA Certificate of Registration in Schedules III non-narcotic, IV and V subject to the following terms and conditions for a period of three years from the date of issuance of the registration:

(1) Respondent shall be permitted to prescribe, but not administer or otherwise dispense, controlled substances.

(2) Respondent shall not be permitted to possess any controlled substance unless properly authorized by another licensed practitioner who has been advised of the restrictions on Respondent's registration.

(3) Respondent shall not prescribe controlled substances for himself or any member of his immediate family.

(4) Respondent shall be required to submit a log of his prescriptions to the DEA Louisville Resident Office for review every three months. This log shall include, at a minimum, the date of issuance of the prescription, the name of the patient receiving the prescription, and the name, dosage and quantity of the controlled substance prescribed.

(5) Respondent is required to undergo random drug screening at his own expense not less than one time per month, and is required to forward the results of the drug screens to the DEA Louisville Resident Office.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application, submitted by Roger McAlpin, D.M.D., for a DEA Certificate of Registration be, and it hereby is, granted in Schedules III non-narcotic, IV and V subject to the above described restrictions. This order is effective March 24, 1997.

Dated: February 10, 1996.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–4345 Filed 2–20–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 13, 1997, Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Morphine (9300)	II
Codeine (9050)	II
Thebaine (9333)	II
Hydrocodone (9193)	II
Oxycodone (9143)	II

The firm plans to manufacture the listed controlled substances for distribution to its customers as bulk product.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 22, 1997.

Dated: February 6, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–4346 Filed 2–20–97; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 3, 1996, Noramco of Delaware, Inc., Division of McNeilab, Inc., 500 Old Swedes Landing Road, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances to produce codeine phosphate, codeine sulfate, morphine sulfate, oxycodone and hydrocodone.

Any manufacture holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 24, 1997.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 7, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–4347 Filed 2–20–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–93]

Entela, Inc.; Expansion for Recognition as a Nationally Recognized Testing Laboratory

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of requests for expansions of recognition as a nationally recognized testing laboratory, and preliminary finding.

SUMMARY: This notice announces the applications of Entela, Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, for laboratory facilities, test standards, and programs and procedures, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is April 22, 1997.

ADDRESSES: Send comments to: NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor—Room N3653, 200 Constitution Avenue, N.W., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3653, Washington, DC 20210.