DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–29]

David M. Rose, MD.; Revocation of Registration

On May 15, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David M. Rose, M.D. (Respondent), of Massachusetts, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BR2726365, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts.

The Order to Show Cause was ultimately received by Respondent on August 12, 1997, In a letter to the DEA Office of Administrative Law Judges dated August 15, 1997. Respondent did not dispute that his license to practice medicine in the Commonwealth of Massachusetts was suspended. Respondent further stated, ''[h]owever, I am soon to enter into a probationary agreement with [the Massachusetts Board of Medicine] that will allow me to practice medicine in a restricted and monitored fashion[.] I wonder if then at that time it would be possible for me to apply for some sort of DEA license with whatever restrictions [DEA] would deem appropriate, so that I may prescribe medications if and when I am allowed to continue practice?'' Respondent did not request a hearing on the issues raised by the Order to Show Cause.

The matter was docketed before Administrative Law Judge Mary Ellen Bittner. On October 16, 1997, Government counsel sent a letter to Respondent which advised him that he could either surrender his DEA Certificate of Registration, request a hearing, or waive his right to a hearing and submit a written statement for consideration regarding the proposed revocation of his registration. Respondent was further advised that if he surrendered his registration or DEA revoked it, he could reapply for a new DEA Certificate of Registration upon reinstatement of his state license, but that his DEA registration would not be automatically reinstated if he regains his state license.

Thereafter, on November 3, 1997, the Office of Administrative Law Judges sent Respondent a letter advising him that if no request for a hearing was received by November 24, 1997, he would be deemed to have waived his right to a hearing. On December 8, 1997, Judge Bittner issued a Memorandum and Order stating that since no request for a hearing was received, Respondent was deemed to have waived his opportunity for a hearing pursuant to 21 CFR 1301.43(d). Consequently, after considering relevant material from the investigative file, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on November 9, 1994, the Commonwealth of Massachusetts, Board of Registration in Medicine issued an Order of Suspension of Respondent's license to practice medicine in the Commonwealth of Massachusetts. The suspension was based on charges related to Respondent's mental condition and dependence on alcohol and drugs; the substandard quality of medical care Respondent provided; Respondent's false statements on his Massachusetts license renewal application; and his violation of the Controlled Substances Act.

Respondent did not present any evidence that his Massachusetts medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the Commonwealth of Massachusetts. The Acting Deputy Administrator further finds that it is reasonable to infer that Respondent is also not authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts. Therefore, he is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BR2726365, previously issued to David M. Rose. M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19083 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA#167R]

Controlled Substances: Proposed Revised Aggregate Production Quotas for 1998

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 1998 aggregate production quotas.

SUMMARY: This notice proposes revised 1998 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections should be received on or before August 17, 1998.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

On November 21, 1997, a notice of established initial 1998 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (62 FR 62349). The notice proposing initial

1998 aggregate production quotas (62 FR 46373) stipulated that the Deputy Administrator of the DEA would adjust the quotas in early 1998 as provided for in Section 1303 of Title 21 of the Code of Federal Regulations.

The proposed revised 1998 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 1998 to provide adequate supplies of each substance for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

The proposed revisions are based on a review of 1997 year-end inventories, 1997 disposition data submitted by quota applicants, estimates of the medical needs of the United States, and other information available to the DEA.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby proposes the following revised 1998 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base:

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Schedule I:		
2, 5-Dimethoxyamphetamine	15,000,100	20,000,100
2, 5-Dimethoxy-4-ethylamphetamine (DOET)	2	2
3-Methylfentanyl	14	14
3-Methylthiofentanyl	2	2
3,4-Methylenedioxyamphetamine (MDA)	25	25
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	30	30
3,4-Methylenedioxymethamphetamine (MDMA)	20	20
3,4,5-Trimethoxyamphetamine	2	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2	2
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2	2
4-Methoxyamphetamine	100,100	100,100
4-Methylaminorex	2	2
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2	2
Acetyl-alpha-methylfentanyl	2	2
Acetylmethadol	7	7
Allylprodine	2	2
Alpha-acetylmethadol	7	7
Alpha-ethyltryptamine	2	2
Alphameprodine	2	2
Alpha-methadol	2	2
Alpha-methylfentanyl	2	2
Alphaprodine	2	2
Alpha-methylthiofentanyl	2	2
Aminorex	7	7
Beta-acetylmethadol	2	2
Beta-hydroxyfentanyl	2	2
Beta-hydroxy-3-methylfentanyl	2	2
Beta-methadol	2	2
Betaprodine	2	2
Bufotenine	2	2
Cathinone	9	9
Codeine-N-oxide	2	2
Diethyltryptamine	2	2
Difenoxin	16,000	16,000
Dihydromorphine	7	7
Dimethyltryptamine	2	2
Ethylamine Analog of PCP	5	5
Heroin	2	2
Hydroxypethidine	2	2
Lysergic acid diethylamide (LSD)	57	57
Mescaline	7	7
Methaqualone	17	17
Methcathione	11	11
Morphine-N-oxide	2	2
N-Ethylamphetamine	7	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	4	4
N,N-Dimethylamphetamine	7	7
Noracymethadol	2	2
Norlevorphanol	2	2
Normethadone	7	7
Normorphine	7	7
Para-fluorofentanyl	2	2
Pholcodine	2	2
Psilocin	2	2

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Psilocybin	2	2
Tetrahydrocannabinols	26,000	31,000
Thiofentanyl	2	2
Trimeperidine	2	2
Schedule II:		
1-Phenylcyclohexylamine	15	15
1-Piperidinocyclohexanecarbonitrile (PCC)	12	12
Alfentanil	8,100	8,100
Amobarbital	12	12
Amphetamine	4,037,000	4,178,000
Cocaine	550,100	550,100
Codeine (for sale)	62,020,000	62,020,000
Codeine (for conversion)	18,460,000	23,906,000
Desoxyephedrine 1,151,000 grams of levodesoxyephedrine for use in a non-controlled, non-prescription product and 32,000 grams for methamphetamine	1,332,000	1,183,000
Dextropropoxyphene	109,500,000	109,500,000
Dihydrocodeine	189,000	46,000
Diphenoxylate	1,600,000	1,600,000
Ecgonine	651,000	651,000
Ethylmorphine	12	12
Fentanyl	202,000	202,000
Glutethimide	2	2
Hydrocodone (for sale)	13,908,000	16,314,000
Hydrocodone (for conversion)	3,000,000	3,000,000
Hydromorphone	766,000	766,000
Isomethadone	12	12
Levo-alpha-acetylmethadol (LAAM)	356,000	356,000
Levomethorphan	2	2
Levorphanol	15,000	15,000
Meperidine	9,311,000	9,745,000
Methadone (for sale)	3,790,000	5,413,000
Methadone (for conversion)	1,169,000	585,000
Methadone Intermediate	6,777,000	7,488,000
Methamphetamine (for conversion)	723,000	723,000
Methylphenidate	14,442,000	14,442,000
Morphine (for sale)	11,535,000	12,034,000
Morphine (for conversion)	75,918,000	75,918,000
Nabilone	2	2
Noroxymorphone (for sale)	25,000	25,000
Noroxymorphone (for conversion)	2,117,000	2,177,000
Opium	615,000	615,000
Oxycodone (for sale)	9,032,000	9,451,000
Oxymorphone	120,000	126,000
Pentobarbital	16,562,000	16,562,000
Phencyclidine	60	60
Phenmetrazine	2	2
Phenylacetone	10	10
Secobarbital	301,000	397,000
Sufentanil	700	1,800
Thebaine	9,580,000	13,230,000

The Acting Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances including §§ 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations remain at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedule I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to

approximately 200 DEA registered bulk and dosage from manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19084 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Solicitor

Agency Information Collection Activities: Proposed Collection; Comment Request; Equal Access to Justice Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general 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 (PRA95) [44 U.S.C. 3505(c)(2)(A)]. The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed. Currently the Office of the Solicitor is soliciting comment concerning the proposed extension of the information collection request (ICR) for applications to obtain awards in administrative proceedings subject to the Equal Access to Justice Act.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Written comments must be submitted by September 15, 1998.

ADDRESSES: Comments are to be submitted to Department of Labor/The Office of Solicitor Attn: Peter Galvin, 200 Constitution Avenue, N.W. (Room N–2428) Washington D.C. 20210). Written comments limited to 10 pages or fewer may be transmitted by facsimile to (202) 219–6896.

FOR FURTHER INFORMATION CONTACT: Contact Peter Galvin, The Office of Solicitor, telephone (202) 219–8065 or Todd Owen at (202) 219–5096 (ext 143). Copies of the referenced information collection request are available in room N–1301, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ({202} 219–5096 Ext. 143) or by E-Mail to Owen-Todd@dol. gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Access to Justice Act provides for the award of fees and expenses to certain parties involved in administrative proceedings with the United States. The statute requires, at 5 U.S.C. sec. 504(a)(2), that a party seeking an award of fees and other expenses in a covered administrative proceeding must submit to the agency ''an application which shows that the party is prevailing party and is eligible to receive an award'' under the Act. The Department of Labor's regulations implementing the Equal Access to Justice Act contain a subpart which specifies the contents of applications for an award, 29 CFR Part 16, Subpart B.

II. Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the paperwork requirements for the contents of applications for an award under the Equal Access to Justice Act.

Type of Review: Extension.

Agency: Office of the Solicitor.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Affected Public: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Respondents: 10.

Frequency: On occasion.

Total Responses: 10.

Average Time per Response: 5 hours.

Estimated Total Burden Hours. 1 hour.

Total Annualized capital/startup costs: 0.

Total initial costs: 0.

Comments submitted in response to this notice will be summarized and may be included in the request for OMB approval of the final information collection request. The comments will become a matter of public record.

Dated: July 13, 1998.

Robert A. Shapiro,

Associate Solicitor for Legislation and Legal Counsel.

[FR Doc. 98–19111 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be