§ 1313.54 Request for hearing.

(a) Any person entitled to a hearing pursuant to § 1313.52 and desiring a hearing shall, within 30 days after receipt of the notice to suspend the shipment, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

(b) If any person entitled to a hearing or to participate in a hearing pursuant to § 1313.41 fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the hearing, unless he shows good cause for such failure.

(c) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1313.57.

§ 1313.55 Burden of proof.

At any hearing regarding the suspension of shipments, the Agency shall have the burden of proving that the requirements of this part for such suspension are satisfied.

§ 1313.56 Time and place of hearing.

(a) If any regulated person requests a hearing on the suspension of shipments, a hearing will be scheduled no later than 45 days after the request is made, unless the regulated person requests an extension to this date.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

§ 1313.57 Final order.

As soon as practicable after the presiding officer has certified the record to the Administrator, the Administrator shall issue his order regarding the suspension of shipment. The order shall include the findings of fact and conclusions of law upon which the order is based. The Administrator shall serve one copy of his order upon each party in the hearing.

PART 1314—RETAIL SALE OF SCHEDULED LISTED CHEMICAL PRODUCTS

Subpart A—General

Subpart B—Sales by Regulated Sellers

Subpart C—Mail-Order Sales

Subpart D—Order To Show Cause

AUTHORITY: 21 U.S.C. 802, 830, 842, 871(b), 875, 877, 886a.

SOURCE: 71 FR 56024, Sept. 26, 2006, unless otherwise noted.

Subpart A—General

§ 1314.01 Scope.

This part specifies the requirements for retail sales of scheduled listed chemical products to individuals for personal use.

§ 1314.02 Applicability.

(a) This part applies to the following regulated persons who sell scheduled

listed chemical products for personal use:

(1) Regulated sellers of scheduled listed chemical products sold at retail for personal use through face-to-face sales at stores or mobile retail vendors.

(2) Regulated persons who engage in a transaction with a non-regulated person and who ship the products to the non-regulated person by the U.S. Postal Service or by private or common carriers.

(b) The requirements in subpart A apply to all regulated persons subject to this part. The requirements in subpart B apply to regulated sellers as defined in § 1300.02 of this chapter. The requirements in subpart C apply to regulated persons who ship the products to the customer by the U.S. Postal Service or by private or common carriers.

§ 1314.03 Definitions.

As used in this part, the term ''mail-order sale'' means a retail sale of scheduled listed chemical products for personal use where a regulated person uses or attempts to use the U.S. Postal Service or any private or commercial carrier to deliver the product to the customer. Mail-order sale includes purchase orders submitted by phone, mail, fax, Internet, or any method other than face-to-face transaction.

§ 1314.05 Requirements regarding packaging of nonliquid forms.

A regulated seller or mail order distributor may not sell a scheduled listed chemical product in nonliquid form (including gel caps) unless the product is packaged either in blister packs, with each blister containing no more than two dosage units or, if blister packs are technically infeasible, in unit dose packets or pouches.

§ 1314.10 Effect on State laws.

Nothing in this part preempts State law on the same subject matter unless there is a positive conflict between this part and a State law so that the two cannot consistently stand together.

§ 1314.15 Loss reporting.

(a) Each regulated person must report to the Special Agent in Charge of the DEA Divisional Office for the area in which the regulated person making the report is located, any unusual or excessive loss or disappearance of a scheduled listed chemical product under the control of the regulated person. The regulated person responsible for reporting a loss in-transit is the supplier.

(b) Each report submitted under paragraph (a) of this section must, whenever possible, be made orally to the DEA Divisional Office for the area in which the regulated person making the report is located at the earliest practicable opportunity after the regulated person becomes aware of the circumstances involved.

(c) Written reports of losses must be filed within 15 days after the regulated person becomes aware of the circumstances of the event.

(d) A report submitted under this section must include a description of the circumstances of the loss (in-transit, theft from premises, *etc.*).

(e) A suggested format for the report is provided below:

Regulated Person

Registration number (if applicable) _____
Name _____
Business address _____
City _____
State _____
Zip _____
Business phone _____
Date of loss _____
Type of loss _____
Description of circumstances _____

Subpart B—Sales by Regulated Sellers

§ 1314.20 Restrictions on sales quantity.

(a) Without regard to the number of transactions, a regulated seller (including a mobile retail vendor) may not in a single calendar day sell any purchaser more than 3.6 grams of ephedrine base, 3.6 grams of pseudoephedrine base, or 3.6 grams of phenylpropanolamine base in scheduled listed chemical products.

(b) A mobile retail vendor may not in any 30-day period sell an individual purchaser more than 7.5 grams of ephedrine base, 7.5 grams of pseudoephedrine base, or 7.5 grams of phenylpropanolamine base in scheduled listed chemical products.