Schedule I & II  
Importers & **Bulk** Manufacturers  

Drug Enforcement Administration  
Manufacturer/Distributor/Importer/Exporter Conference  

San Antonio, TX  
September 6, 2018
Persons Required to Register

- Law: 21 USC 822 (a) (1)

- “Every person who manufactures or distributes any controlled substance or list I chemical...shall obtain annually a registration...
Registrations – “Business Activity”

- Manufacturer
- Distributor
- Reverse Distributor
- Importer
- Exporter
- Pharmacy
- Practitioner
- Researcher, NTP, Analytical Lab, Teaching Institution
Manufacturers

- *Bulk* Manufacturers
- *Dosage Form* Manufacturers
- Manufacturers who *Re-Package/Re-Label*
The term **Bulk Manufacturer** means: the production, preparation, propagation, compounding, or processing of a drug or other substances, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.
In Plain English

The *creation* of a controlled substance = Bulk Mfng

- The created controlled substance is used for the preparation of saleable dosage units

**Synthesize**: Produces controlled substance raw materials from basic chemicals

**Extract**: Derives a drug from an organic source

- Most *narcotics* are manufactured through extraction. Raw opium/cocoa leaves are imported ‡ active ingredients are extracted and used for the further production of a variety of drugs
For purposes of this presentation –

CI and CII importation applies *only* to Importer registrations and *not to* coincidental activities authorized for researcher and analytical laboratory registrations pursuant to 21 C.F.R. § 1301.13 (e) (1).
Importers
21 USC § 952(a)(2)

DEA grants Importer registrations for the importation of CI & CII controlled substances to “provide for the medical, scientific, or other legitimate needs of the United States.”

- If there is currently a sufficient domestic supply of any given Schedule I or II controlled substance, requests to import that controlled substance may be denied
Importers

• Importation is authorized only for domestic use in the United States

• An importer may not import a CI or CII controlled substance for the purpose of exporting it
Registrations Specific to the 303 Process

- **Bulk Manufacturers**
  Only CI and CII Controlled Substances for which “bulk” status is requested

- **Importers**
  All CI and CII Controlled Substances
“Section 303”

On October 27, 1970, Section 303 was passed into law by Congress and placed into 21 USC § 823

“303” was the number used by Congress to track the legislation

Therefore: “Section 303 Investigations”
“Section 303 Registrants”
Legal Citations – Manufacturers
United States Code

n 21 USC § 823(a)

Legislates the registration of CI & CII bulk manufacturers and includes the six (6) “public interest” factors which must be examined and considered prior to granting the registration.
21 USC § 958(a)

Legislates the registration of CI & CII importers and references the six (6) “public interest” factors which must be examined and considered prior to granting the registration.
Code of Federal Regulations

- 21 C.F.R. § 1301.33 (Bulk Manufacturers)
- 21 C.F.R. § 1301.34 (Importers)

Establishes the regulations which govern the approval and renewal processes for CI & CII bulk manufacturer and importer applications.
Registration Requirements

21 USC § 823(a)

Manufacturers of controlled substances in Schedule I and II

(a) The Attorney General shall register an applicant to manufacture controlled substances in Schedule I or II if he determines that such registration is consistent with the public interest...In determining the public interest, the following factors shall be considered:
Registration Requirements
21 USC § 823(a)

Manufacturers of controlled substances in Schedule I and II

1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in Schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;
2) Compliance with applicable state and local law;

3) Promotion of technical advances in the art of manufacturing these substances and the development of new substances;

4) Prior conviction record of applicant under federal and state laws relating to the manufacture, distribution, or dispensing of such substances;
5) Past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

6) Such other factors as may be relevant to and consistent with the public health and safety.
"The 303 Process"

The Section 303 Process is initiated upon receipt by DEA Headquarters of a:

- New Application for Registration

- Renewal Application

- Request to Modify a Registration (adding drug codes)
The Review Includes:

- DEA Field Investigation

- DEA HQs Analysis and Review (to include review of 303 Questionnaire)

- Publication in the Federal Register

- And any other additional information as deemed necessary (21 C.F.R. § 1301.15)
Reviewing the Application

- The review process is required to ensure compliance with the requirements of 21 C.F.R. §§ 1301.33 and 1301.34

- The DEA **field office** does not have the authority to approve or modify a registration subject to a 303 investigation
303 Process

1) DEA receives a new or renewal application for registration or a request to add Schedule I or II drug codes

2) DEA emails the applicant the standardized *Bulk Manufacturer Questionnaire* or *Importer Questionnaire* and requests a response within ten business days

*The questions are incorporated at the end of this presentation.*
303 Process

3) Upon DEA receipt of the completed questionnaire, a *Notice of Application (NOA)* is prepared, signed by Assistant Administrator John J. Martin, and published in the *Federal Register*

4) The CFR requires an *open comment period* during which time other bulk manufacturers or importers of the same basic classes of controlled substances can file comments and objections to the proposed registration
5) Open comment period

Importers: 30 days

Bulk Manufacturers: 60 days

The comment period commences the date the NOA is published in the Federal Register

6) The local DEA field office conducts an on-site investigation of the applicant/registrant which includes the six public interest factors in 21 USC § 823 (a)(1-6)

303 Process
303 Process

7) If no objections were received during the open comment period…

and if DEA determined that the registration would be consistent with the public interest…

8) A Notice of Registration (NOR) is prepared, signed by the Assistant Administrator, and published in the Federal Register
Completion of the Process

9) Following publication of the NOR in the Federal Register, the application is approved or renewed.

THIS IS A **PROCESS**, NOT A **SINGLE ACTION**. IT IS NOT UNCOMMON FOR THIS PROCESS TO TAKE 4-6 MONTHS TO COMPLETE.
INDUSTRY EFFORTS THAT HELP KEEP THE PROCESS MOVING

✓ Be aware of the expiration date(s) on your registrations and submit your renewal applications in a timely manner.

✓ Place a check mark √ by the drug codes you intend to manufacture in bulk as requested on the application. DEA does not presume you want the same codes that you previously requested. If the codes are not checked they will not be included on the Federal Register Notice.
INDUSTRY EFFORTS THAT HELP KEEP THE PROCESS MOVING

✓ When completing the questionnaire sent by DEA, provide responses for all relevant drug codes requested on your new or renewal application.
INDUSTRY EFFORTS THAT HELP KEEP THE PROCESS MOVING

- Retain a copy of the Importer or Bulk Manufacturer Questionnaire
- Review your applications and questionnaires for completeness and accuracy before you submit them
If your registration has expired, and you have submitted a renewal application, you may contact DEA headquarters to request an “extension letter” to provide to your suppliers and customers for verification purposes.
Reminder!

✓ Make every effort to include **ALL** potential Schedule I and II drug codes that you will need during the coming 12 months **at the time you renew your registration** each year.

✓ Adding Schedule I and II drug codes at any time other than renewal results in an **additional 303 process**
The following questions pertain to your company’s request to bulk manufacture CI and/or CII controlled substances (CS).

Please provide detailed responses to the following questions for *each* drug code that your company has proposed to manufacture in bulk.
1) What is the purpose for the bulk manufacture of the controlled substance?

2) Specifically, from start to finish, describe the production process for each controlled substance.

3) What materials will be used to manufacture the controlled substance(s) and in what quantities?
4) Please provide the name, address, method of shipment and method of delivery for each supplier from which your firm intends to procure materials for the manufacture of the controlled substance(s).
5) Does your company have a firm commitment from each supplier of raw material? What is the time period of this agreement and what quantity of raw material will each supplier be able to supply? Please attach copies of commitment letters from each supplier.

6) What quantity of each controlled substance does your company anticipate producing in bulk?
7) Who are your current and prospective customers (name, address and DEA number) for each controlled substance?

a) What product(s) (e.g., active pharmaceutical ingredient or API, dosage units, materials for clinical research) does your company intend to sell to each customer listed?

b) What quantity of each substance have your customers indicated they would purchase?
c) For what purpose are your customer(s) purchasing the controlled substance? (e.g., dosage form development, clinical trials, FDA approval). Please be specific as it relates to each customer and each controlled substance identified above.

Please attach copies of letters of interest from the prospective customers.
BULK MANUFACTURER QUESTIONS
CI & CII CONTROLLED SUBSTANCES
(CONTINUED)

8) What are your company’s future plans with regard to the manufacture of controlled substance(s)? Please provide detailed information, as much as possible, including timelines, and plans to expand your production facility, addition of equipment, product development activities, research and development, batch names and batch sizes and any FDA approvals.
9) When does your company anticipate commencing sales or other distribution of each controlled substance?

10) Do you currently have any other controlled substance registrations from the Drug Enforcement Administration? If so, please include the name, DEA number(s), business activity, drug schedules, and expiration date(s).
11) Please describe your company’s past experience in manufacturing controlled substances. Please be specific with regards to dates, types of manufacturing activity, and names and schedules of controlled substances manufactured.
12) Have you or anyone else who will be involved in the ownership or operation of your company previously manufactured or distributed any controlled substance without a DEA registration authorizing such activity? For each person, please separately indicate dates, types of manufacturing or distribution activity, names of controlled substances, and quantities manufactured or distributed. Do not include persons who own less than 5 percent of the company.
13) Has primary ownership of your company changed over the past 12 months? If so, please provide details.
14) If your company is applying to obtain a registration as a bulk manufacturer because your company is unable to purchase the needed controlled substance(s) from existing bulk manufacturers, please provide the names of the existing registered bulk manufacturers you contacted. Please include dates of contact, person contacted, and method of contact.
15) Please describe in detail whether your company’s proposal to bulk manufacture controlled substances will promote technical advances in the art of manufacturing these substances and in the development of new substances.
16) **Adequacy of supply** – Are you seeking to become registered based on the contention that the existing registered bulk manufacturers of the controlled substance are incapable of producing an adequate and uninterrupted supply of that substance to meet lawful needs of the United States? If so, please explain in detail.
17) **Adequacy of competition** – Are you seeking to become registered based on the contention that the existing registered bulk manufacturers of the controlled substance are incapable of supplying the lawful need of the United States under adequately competitive conditions? If so, please answer the following questions:
BULK MANUFACTURER QUESTIONS
CI & CII CONTROLLED SUBSTANCES (CONTINUED)

17 cont.

a) Regarding your competitors, products, and prices, please explain why those suppliers are inadequate?

b) Why are current prices charged by your competitors unreasonable?

c) Please provide evidence showing that current market prices are clearly and persistently excessive.
17 cont.

d) Please state your prices and explain why they are more competitive than the current prices in the existing market.

e) Provide evidence that you can produce the controlled substance(s) in question at a lower cost than your competitors.
IMPORTER QUESTIONS
CI & CII CONTROLLED SUBSTANCES

The following questions pertain to your request to import CI and/or CII controlled substances (CS).

Please provide detailed responses to the following questions for each CI and/or CII drug code that you (your firm) has requested authority to import.
IMPORTER QUESTIONS
CI & CII CONTROLLED SUBSTANCES (continued)

1) What type of controlled substance does your company intend to import: bulk or dosage form?
   A) Is this a derivative of a basic drug class?

2) What is the purpose for the importation of the controlled substance? (For example: narcotic raw material for bulk manufacture, clinical trials, research, analytical purposes, or distribution).
3) Why is a foreign source of supply being used instead of a domestic source? (please elaborate)

4) What is the name, address, method of shipment and method of delivery for each supplier of the controlled substance your company proposes to import?
5) Does your company have a firm commitment from the supplier(s) of each substance proposed for importation?

   a) What is the time period of the commitment?
   b) What quantity is involved?
   c) Please attach all copies of all commitment letters

6) What quantity of each controlled substance does your company anticipate importing on an annual basis?
7) Who are your current and prospective customers? Please provide a list of names, addresses and DEA numbers for each controlled substance.

Please attach copies of letters of intent from these customers.
IMPORTER QUESTIONS
CI & CII CONTROLLED SUBSTANCES (continued)

8) Will the controlled substance(s) you propose to import be used to manufacture controlled substances? If so, how and in what quantity, are they to be manufactured?

9) Does your company have previous experience handling controlled substances? Please Explain.
10) Does your company have previous experience in the importation of controlled substances? Please explain.

11) When does your company anticipate selling a commercial product?
12) Please provide a written description of what resources your company has committed to the establishment of your importation business pertaining to these drug codes.

For example: Does your company intend to make, or has it made, any changes to its physical plant, security system, production equipment, or recordkeeping system? Please provide a proposed timeframe for the completion of these activities.
13) Does your company currently possess any other registrations from the Drug Enforcement Administration pertaining to controlled substances? If so, please include the registration number(s), business activity, drug schedules, and expiration date for each registration.