

Drug Operations Section, Washington, DC 20537, at least 30 days, or in the case of an emergency as soon as practicable, prior to the expected date of importation, transfer or transshipment. Each application shall contain the following:

- (1) The date of execution;
- (2) The identification and description of the controlled substance;
- (3) The net quantity thereof;
- (4) The number and size of the controlled substance containers;
- (5) The name, address, and business of the foreign exporter;
- (6) The foreign port of exportation;
- (7) The approximate date of exportation;
- (8) The identification of the exporting carrier;
- (9) The name, address and business of the importer, transferor, or transshipper;
- (10) The registration number, if any, of the importer, transferor or transshipper;
- (11) The U.S. port of entry;
- (12) The approximate date of entry;
- (13) The name, address and business of the consignee at the foreign port of entry;
- (14) The shipping route from the U.S. port of exportation to the foreign port of entry;
- (15) The approximate date of receipt by the consignee at the foreign port of entry; and
- (16) The signature of the importer, transferor or transshipper, or his agent accompanied by the agent's title.

(c) An application shall be accompanied by an export license, permit, or a certified copy of the export license, permit, or other authorization, issued by a competent authority of the country of origin (or other documentary evidence deemed adequate by the Administrator).

(d) An application shall be accompanied by an import license or permit or a certified copy of such license or permit issued by a competent authority of the country of destination (or other documentary evidence deemed adequate by the Administrator), indicating that the controlled substance:

- (1) Is to be applied exclusively to scientific, medical or other legitimate uses within the country of destination;

(2) Will not be exported from such country; and

(3) Is needed therein because there is an actual shortage thereof and a demand therefor for scientific, medical or other legitimate uses within such country.

(e) Verification by an American consular officer of the signatures on a foreign import license or permit shall be required, if such license or permit does not bear the seal of the authority signing them.

(f) The Administrator may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Administrator in granting or denying the application.

(g) The Administrator shall, within 21 days from the date of receipt of the application, either grant or deny the application. The applicant shall be accorded an opportunity to amend the application, with the Administrator either granting or denying the amended application within 7 days of its receipt. If the Administrator does not grant or deny the application within 21 days of its receipt, or in the case of an amended application, within 7 days of its receipt, the application shall be deemed approved and the applicant may proceed.

[36 FR 7815, Apr. 24, 1971, as amended at 37 FR 15923, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973, and further amended at 45 FR 74715, Nov. 12, 1980; 51 FR 5319, Feb. 13, 1986; 53 FR 48244, Nov. 30, 1988; 62 FR 13969, Mar. 24, 1997]

§ 1312.32 Schedules II, III, IV: Advance notice.

(a) A controlled substance listed in Schedules II, III, or IV may be imported into the United States for transshipment, or may be transferred or transshipped within the United States for immediate exportation, provided that written notice is submitted to the Drug Enforcement Administration,

Drug Operations Section, Washington, DC 20537, at least 15 days prior to the expected date of importation, transfer or transshipment.

(b) Each advance notice shall contain those items required by § 1312.31 (b) and (c).

[36 FR 7815, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 45 FR 74715, Nov. 12, 1980; 51 FR 5319, Feb. 13, 1986; 53 FR 48244, Nov. 30, 1988; 62 FR 13969, Mar. 24, 1997]

HEARINGS

§ 1312.41 Hearings generally.

(a) In any case where the Administrator shall hold a hearing regarding the denial of an application for an import, export or transshipment permit, the procedures for such hearing shall be governed generally by the adjudication procedures set forth in the Administrative Procedure Act (5 U.S.C. 551-559) and specifically by sections 1002 and 1003 of the Act (21 U.S.C. 952 and 953), by §§ 1312.42-1312.47, and by the procedures for administrative hearings under the Act set forth in §§ 1316.41-1316.67 of this chapter.

(b) [Reserved]

[36 FR 23625, Dec. 11, 1971, as amended at 37 FR 15923, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1312.42 Purpose of hearing.

(a) If requested by a person applying for an import, export, or transshipment permit, the Administrator shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the issuance or denial of such permit to such person.

(b) Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda or proposed findings of fact and conclusions of law.

[36 FR 23625, Dec. 11, 1971, as amended at 37 FR 15923, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1312.43 Waiver or modification of rules.

The Administrator of the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in ad-

vance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

[36 FR 23625, Dec. 11, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1312.44 Request for hearing or appearance; waiver.

(a) Any applicant entitled to a hearing pursuant to § 1312.42 and who desires a hearing on the denial of his application for an import, export, or transshipment permit shall, within 30 days after the date of receipt of the denial of his application, file with the Administrator a written request for a hearing in the form prescribed in § 1316.47 of this chapter.

(b) Any applicant entitled to a hearing pursuant to § 1312.42 may, within the period permitted for filing a request for a hearing, file with the Administrator a waiver of an opportunity for a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(c) If any applicant entitled to a hearing pursuant to § 1312.42 fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing unless he shows good cause for such failure.

(d) If the applicant waives or is deemed to have waived this opportunity for the hearing, the Administrator may cancel the hearing, if scheduled, and issue his final order pursuant to § 1312.47 without a hearing.

[37 FR 15923, Aug. 8, 1972. Redesignated at 38 FR 26609, Sept. 24, 1973]

§ 1312.45 Burden of proof.

At any hearing on the denial of an application for an import, export, or transshipment permit, the Administrator shall have the burden of proving that the requirements for such permit pursuant to sections 1002, 1003, and 1004