

eleven utilities which responded to the Notice argued that revocation of § 2.14 would be in the public interest.

Niagara-Mohawk Power Company stated that the same information is reported to the New York Energy Office, to the New York Public Service Commission as part of rate cases, and to the Electric Power Research Institute where it is catalogued and made available to the public. Georgia Power Company stated that the § 2.14 reports are redundant because of other reports required by other agencies. Consolidated Edison Company of New York noted its belief that reports filed under this section were not susceptible to use as a basis for Commission findings.

#### Effective Date

This rule is to be effective January 1, 1980.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Department of Energy Organization Act, 40 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 2, Subchapter A of Chapter I, Title 18, Code of Federal Regulations is hereby amended as set forth below, effective January 1, 1980.

By the Commission.

Kenneth F. Plumb,  
Secretary.

#### § 2.14 [Revoked]

Section 2.14 is revoked.

[FR Doc. 79-36066 Filed 12-11-79; 8:45 am]  
BILLING CODE 6450-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

#### Schedules of Controlled Substances; Schedule II Placement of Phenylacetone; (Phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone)

**AGENCY:** Drug Enforcement  
Administration, Justice.

**ACTION:** Final Order.

**SUMMARY:** This is a Final Order issued by the Administrator of the Drug Enforcement Administration placing the substance, phenylacetone, also known as phenyl-2-propanone, benzyl methyl ketone, methyl benzyl ketone and P2P, into Schedule II of the Controlled Substances Act. This action results from the increasing evidence of use of phenylacetone as a major immediate chemical precursor to methamphetamine

and amphetamine in their illicit clandestine synthesis. The effect of the present Order provides regulatory controls upon the manufacture, distribution, dispensing, importation and exportation of this immediate precursor to methamphetamine and amphetamine.

#### EFFECTIVE DATE OF SCHEDULE II

**CONTROL:** February 11, 1980, except as otherwise provided in SUPPLEMENTARY INFORMATION Section of this Order.

**FOR FURTHER INFORMATION CONTACT:** Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: 202-633-1366.

**SUPPLEMENTARY INFORMATION:** In enacting the Controlled Substances Act in 1970, Congress provided in Section 201(e) of the Act a mechanism for allowing the Attorney General to place a drug or chemical into a schedule of control without the requirement of first obtaining a medical and scientific evaluation and recommendation from the Secretary of Health, Education, and Welfare, without having to make findings of his own on abuse and public health risk, or concerning the schedule considered, and without the need to provide an opportunity for a rulemaking hearing on the record in accordance with the Administrative Procedures Act (5 U.S.C. 551-559). In lieu of these procedures otherwise required for the traditional scheduling of drugs or other substances, Congress allowed the Attorney General to schedule a drug or substance if it was found by him to be an immediate precursor as defined in Section 102(22) of the Act. That section provides as follows:

The term "immediate precursor" means a substance—(A) Which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance; (B) Which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and (C) The control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

In establishing this alternative scheduling procedure, Congress intended to dispense with the formal, and sometimes lengthy, administrative regulatory rulemaking process in cases where the risk was that clandestine laboratories were making controlled substances with chemicals which themselves were not controlled, but which were one step removed from turning out or becoming the controlled substances illicitly manufactured.

Congress recognized the need for this summary scheduling mechanism as it considered testimony provided to the House Select Committee on Crime, 91st Congress, 2nd Session, 1970-1971, (H. Rept. No. 91-1807, p. 25-6), which stated that entrepreneurs willing to set up clandestine laboratories to manufacture amphetamine and methamphetamine would find easy manufacture and realize high profits.

DEA's own investigations have documented 268 illicit methamphetamine and 45 illicit amphetamine laboratories, seized from 1975 to November 1979. More important, the illicit methamphetamine laboratories seized in the first eleven months of this year is 106, compared with 11 seized in all of 1975. These statistics appear more alarming when one considers that DEA's enforcement effort obviously cannot account for 100% of the illicit laboratories in operation. Better control by DEA over this illicit activity could be obtained if essential ingredients used in the illicit manufacture of methamphetamine and amphetamine were regulated as are the end-products—controlled substances.

DEA's investigations have shown that at least three out of four methamphetamine laboratories seized since 1976 made, purchased or used phenylacetone in one of two synthetic methamphetamine manufacturing processes. Of those, the more popular process to make methamphetamine is the reductive amination of phenylacetone with methylamine in ethanol with aluminum foil and mercuric chloride catalysts. The second mentioned process to make methamphetamine is designated as the Leuckart synthesis where phenylacetone is heated with formic acid and methylamine and hydrolyzed with hydrochloric acid. Both processes can produce amphetamine if methylamine is simply replaced by ammonia (salts). DEA laboratories have analyzed seized samples of methamphetamine and amphetamine of illicit manufacture and have identified in those samples trace amounts of phenylacetone.

These investigations and laboratory analyses support the conclusion that most of the illicit methamphetamine and amphetamine produced by clandestine laboratories resulted from their use of phenylacetone as an essential ingredient in the process.

Other trace substances have been found in the above-mentioned methamphetamine and amphetamine samples seized and analyzed. The trace substances have been identified as by-products of syntheses and side-reactions where phenylacetone or its precursor,

phenylacetic acid, was an essential ingredient. This further establishes an additional concern that illicit laboratories, manufacturing methamphetamine and amphetamine, in some cases made, rather than purchased, their own phenylacetone. This capability drives the exposure of illicit laboratory activity deeper from law enforcement's view by replacing the marketplace transaction of purchasing phenylacetone with the hidden activity of making it.

Currently, the Drug Enforcement Administration relies upon its Precursor Liaison Program to identify excessive or suspicious sales, by manufacturers and wholesalers to questionable purchasers, of chemicals for their likely use in the illicit manufacture of controlled substances. Participating in this program are at least one manufacturer and numerous wholesalers of phenylacetone. However, participation is voluntary, and in the face of dramatically rising numbers of seizures of illicit methamphetamine and amphetamine laboratories in recent years, the obvious present need calls for requiring, not requesting, sales and distribution records and reports, security measures and import restrictions, to control this essential chemical used in the illicit manufacture of methamphetamine and amphetamine.

Such requirements would include DEA registration of purchasers and sellers of phenylacetone, and likely would result in diminishing the unhindered sales transactions now occurring.

Therefore, in view of the foregoing, the Administrator of the Drug Enforcement Administration hereby finds in accordance with Section 102(22) of the Act (21 U.S.C. 802(22)), that phenylacetone:

(1) Is the principal compound used, or produced primarily for use, in the manufacture of the Schedule II controlled substances methamphetamine or amphetamine;

(2) Is an immediate chemical intermediary used or likely to be used in the manufacture of such substances; and

(3) The control of which is necessary to prevent, curtail or limit the manufacture of such controlled substances.

Therefore, phenylacetone is an "immediate precursor" of methamphetamine and amphetamine as defined in Section 102(22) of the Act (21 U.S.C. 802(22)) and thus may be placed in Schedule II as are methamphetamine and amphetamine, without the necessity of making the findings otherwise required by Sections 201(a) and 202(b) of the Act (21 U.S.C. 811(a) and 812(b)) and

without regard to the procedures otherwise required by Section 201(a) and (b) of the Act (21 U.S.C. 811(a) and (b)). Such procedures which, under the authority of Section 201(e) of the Act (21 U.S.C. 811(e)), need not be required in controlling immediate precursors, include the rulemaking procedures as set forth in the Administrative Procedures Act (5 U.S.C. 551-559), and the opportunity for a hearing on the record.

Therefore, the Administrator of the Drug Enforcement Administration hereby dispenses with issuing Notice of Proposed Rulemaking, and the opportunity for a hearing on the record, and issues this Final Order placing phenylacetone into Schedule II of the Act as an immediate precursor to methamphetamine and amphetamine, out of high regard for the need for prompt controls over phenylacetone without undue delay, which effective amphetamine and methamphetamine control demands, and in recognition of the statutory authority to regulate precursors expeditiously in any event.

Even so, the Administrator is establishing the dates on which the first Schedule II controls shall be imposed upon the legitimate manufacture, distribution, dispensing, importation, and exportation of phenylacetone to be no sooner than February 11, 1980. Within this two month period between publication of this Order and the first effective dates imposing regulatory controls for phenylacetone, all interested persons may submit comments and objections related to the issue whether, and to what extent, the required compliance by industry with Schedule II controls will or might likely hinder their legitimate manufacturing and sales activities with phenylacetone so as to outweigh the expected benefit to result from Schedule II placement of phenylacetone in curbing illicit manufacture of methamphetamine and amphetamine. The Administrator affords this opportunity for comment notwithstanding that he has earlier asked for comments by interested persons on this same issue (40 FR 47525, October 9, 1975). In response thereto, twenty-nine letters were received and the general nature of them was that phenylacetone is used in the pharmaceutical industry to make amphetamine and amphetamine-like products, and minimally in research. Most respondents stated phenylacetone was not used in their industrial processes, which included rubber processing and the manufacture of chemicals. Five opposed control citing

that additional recordkeeping and security measures could be burdensome.

The Administrator, however, intends to learn how industry would currently regard this present control action, and for this reason, is offering the sixty day comment period established by this Order.

Should the Administrator receive comments or objections on the aforementioned issue which raise significant questions on the ability of industry to comply with Schedule II controls for phenylacetone, he shall immediately suspend the effectiveness of this Order as it relates to this imposition of Schedule II regulatory controls until he may reconsider that portion of this Order in light of such comments and objections so filed. Thereafter, he may reinstate, revoke or amend this Order as he determines is appropriate.

Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative. Dated: December 7, 1979.

Therefore, pursuant to 21 U.S.C. 811(e) and regulations of the Drug Enforcement Administration and of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that phenylacetone be included in Schedule II of the Act, and that § 1308.12 of Title 21, Code of Federal Regulations (CFR) be amended by creating a new subsection (f), designated *Immediate precursors*, and including therein phenylacetone as set forth below. Additionally, the Administrator takes the present opportunity to make a non-substantive change in the listing of other immediate precursors, by removing 1-phenylcyclohexylamine, and 1-piperidinocyclohexanecarbonitrile (PCC), which are immediate precursors to phencyclidine (PCP), from where they currently appear in subsection (e) (Depressants) of § 1308.12 and re-listing them in the new subsection (f), and by re-numbering Secobarbital as item (5) in § 1308.12(e).

#### 1308.12 Schedule II.

\* \* \* \* \*

(f) *Immediate precursors*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone—8501  
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine—7460  
(ii) 1-piperidinocyclohexanecarbonitrile (PCC)—8603

\* \* \* \* \*

#### Effective Dates

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports phenylacetone or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before February 11, 1980. Applications for registration should be sent by registered mail, return receipt requested, to: United States Department of Justice, Drug Enforcement Administration, Registration Section, P.O. Box 28083, Central Station, Washington, D.C. 20005.

2. *Security.* Phenylacetone must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72(a), (c), and (d), 1301.73, 1301.74(a)-(f), 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations on or before June 12, 1980. From now until the effective date of this provision, it is expected that manufacturers and distributors of phenylacetone will initiate whatever preparations as may be necessary, including undertaking handling and engineering studies and construction programs, in order to provide adequate security for phenylacetone in accordance with DEA regulations so that substantial compliance with this provision can be met by June 12, 1980. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and Packaging.* All labels on commercial containers of, and all labeling of phenylacetone packaged after June 12, 1980, shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in Section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of phenylacetone shall take an

inventory pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substance on hand on February 11, 1980.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on phenylacetone commencing on the date on which the inventory of such substance is taken.

6. *Reports.* All registrants required to file reports with the Drug Enforcement Administration pursuant to §§ 1304.37-1304.41 of Title 21 of the Code of Federal Regulations shall report on the inventory taken under paragraph 4 above and on all subsequent transactions.

7. *Order Forms.* The order form requirements of §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of this Schedule II controlled substance is taken, March 11, 1980.

8. *Quotas.* Quotas shall be established in 1980 for phenylacetone pursuant to §§ 1303.01-1303.37 of Title 21 of the Code of Federal Regulations. Applications for procurement quotas and manufacturing quotas should be submitted not later than February 11, 1980.

9. *Importation and Exportation.* All importation and exportation of phenylacetone shall, on or after February 11, 1980, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to phenylacetone as a Schedule II controlled substance not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after February 11, 1980, shall be unlawful, except that any person who is not now registered to handle phenylacetone as a Schedule II controlled substance but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with phenylacetone between the date on which this Order is published and the date which he obtains or is denied registration; provided, that application for such registration is submitted on or before February 11, 1980.

11. *Other.* In all other respects, this Order is effective February 11, 1980.

Dated: December 7, 1979.

Peter B. Bensinger,  
Administrator, Drug Enforcement  
Administration.

[FR Doc. 79-38114 Filed 12-11-79; 8:45 am]  
BILLING CODE 4410-09-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for  
Housing—Federal Housing  
Commissioner

24 CFR Part 207

[Docket No. R-79-754]

### Amendments to Part 207 To Change the Minimum Number of Units Required for Projects Insured Under Section 207 of the National Housing Act

AGENCY: Department of Housing and Urban Development, Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: Sections 207.24 (a) and (b) and 207.32a of Subpart A are being amended to reflect the change from 8 to 5 in the minimum number of units required for projects insured under section 207 of the National Housing Act as authorized by the Housing and Community Development Amendments of 1978.

EFFECTIVE DATE: January 2, 1980.

ADDRESS: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Jr., Office of Multifamily Housing Development, Room 6128, 451 Seventh Street SW., Washington, D.C. 20410; Phone: (202) 755-5720. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Section 207 of the National Housing Act has required that a multifamily project or a mobile home park have a minimum of eight units to be eligible for mortgage insurance. This minimum number was changed to five by the Housing and Community Development Amendments of 1978 enacted October 27, 1978. With this change, proposed projects of 5, 6, and 7 units will be eligible for mortgage insurance. Existing multifamily apartment housing projects of five to seven units will also be eligible under Part 207 pursuant to section 223(f) of the National Housing Act.