

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances;
Temporary Placement of N,N-Dimethylamphetamine into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) in order to temporarily place N,N-dimethylamphetamine into Schedule I of the Controlled Substances Act (CSA) pursuant to the emergency scheduling provisions of the CSA. This action is based on a finding by the DEA Administrator that the scheduling of N,N-dimethylamphetamine, at least on a temporary basis, is necessary to avoid an imminent hazard to the public safety. As a result of this rule, the regulatory controls and criminal sanctions imposed on Schedule I substances under the CSA will be applicable to the manufacture, distribution and possession of N,N-dimethylamphetamine.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: The Comprehensive Crime Control Act of 1984 amended section 201 of the CSA (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA if he finds that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General has delegated the authority under 21 U.S.C. 811 to the Administrator of the Drug Enforcement Administration (28 CFR 0.100). A substance may be temporarily scheduled pursuant to the emergency scheduling provisions of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no approval or exemption in effect under 21 U.S.C. 355 of the Federal Food, Drug and Cosmetic Act for the substance.

A notice of intent to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA was published in the *Federal Register* on Wednesday, June 8, 1988 (53 FR 21492). The Administrator transmitted notice of his intention to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA to the Assistant Secretary for

Health of the Department of Health and Human Services. In response to this notification, the Food and Drug Administration, by letter, has advised DEA that there are no exemptions or approvals in effect under 21 U.S.C. 355 of the Federal Food, Drug and Cosmetic Act for N,N-dimethylamphetamine. The letter further stated that the Department of Health and Human Services has no objections to DEA's intention to temporarily place N,N-dimethylamphetamine into Schedule I of the CSA. No other comments were received regarding this matter.

N,N-dimethylamphetamine, or N,N,alpha-trimethylbenzeneethaneamine, belongs to the chemical class of compounds known as phenylisopropylamines. Amphetamine and methamphetamine also belong to this class. N,N-dimethylamphetamine is very similar in molecular structure to amphetamine and methamphetamine and produces central nervous system stimulant effects in common with them in animals. N,N-dimethylamphetamine has been produced in clandestine laboratories and has been identified in drug evidence submissions to forensic laboratories in several states.

In accordance with 21 U.S.C. 811(h)(3), the Administrator has considered the following factors regarding N,N-dimethylamphetamine: (1) Its history and current pattern of abuse; (2) the scope, duration and significance of abuse; and (3) what, if any, risk there is to the public health.

Based on N,N-dimethylamphetamine's structural similarity to amphetamine and methamphetamine, its amphetamine-like central nervous system stimulant properties in animals, its clandestine production, distribution and abuse, the DEA Administrator, pursuant to 21 U.S.C. 811(h) of the CSA and 28 CFR 0.100, finds that scheduling N,N-dimethylamphetamine in Schedule I of the CSA, on a temporary basis, is necessary to avoid an imminent hazard to the public safety.

The following regulations are in effect on August 3, 1988 regarding N,N-dimethylamphetamine except for individuals registered with DEA in accordance with Part 1301 or Part 1311 of Title 21 of the Code of Federal Regulations and who currently possess N,N-dimethylamphetamine may continue to do so pending DEA's receipt of an amended registration no later than September 2, 1988:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports or exports N,N-dimethylamphetamine or who proposes to engage in the manufacture,

distribution, importation or exportation of N,N-dimethylamphetamine or conduct research with N,N-dimethylamphetamine must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* N,N-dimethylamphetamine must be manufactured, distributed and stored in accordance with §§ 1301.71-1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of N,N-dimethylamphetamine must comply with the requirements of §§ 1302.03-1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas.* All persons required to obtain quotas for N,N-dimethylamphetamine must submit applications pursuant to §§ 1302.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants in possession of N,N-dimethylamphetamine are required to take inventories of all stocks of this substance on hand pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations must do so regarding N,N-dimethylamphetamine.

7. *Reports.* All registrants engaged in the manufacture, packaging, labeling or distribution of N,N-dimethylamphetamine are required to submit reports in accordance with §§ 1304.35-1304.37 of Title 21 of the Code of Federal Regulations.

8. *Order Forms.* Each distribution of N,N-dimethylamphetamine requires the use of an order form pursuant to §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and Exportation.* All importation and exportation of N,N-dimethylamphetamine must be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal Liability.* Any activity with N,N-dimethylamphetamine not authorized by or in violation of the CSA or the Controlled Substances Import and Export Act occurring on or after August 3, 1988 is unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the temporary placement of N,N-dimethylamphetamine into Schedule I of the CSA, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the

Regulatory Flexibility Act (Pub. L. 96-354). This action involves the temporary control of a substance with no currently approved medical use or manufacture in the United States.

It has been determined that the temporary placement of N,N-dimethylamphetamine into Schedule I of the CSA under the emergency scheduling provisions is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby amends 21 CFR Part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Paragraph (g)(6) is added to § 1308.11 to read as follows:

§ 1308.11 **Schedule I.**

* * * * *
(g) * * *

(6) N,N-dimethylamphetamine (Some other names: N,N.alpha-trimethylbenzeneethanamine; N,N.alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers 1480

Dated: July 22, 1988.

John C. Lawn,
Administrator, Drug Enforcement Administration.

[FR Doc. 88-17413 Filed 8-2-88; 8:45 am]
BILLING CODE 4410-09-M

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is amending its interpretive regulation found at 28 CFR 2.64 to explain the Commission's interpretation of section 235(b)(3) of the Sentencing Reform Act

of 1984 in light of the amendments to that section made by the Sentencing Act of 1987 at section 2(b)(2), Pub. L. 100-182. The amendment to section 235(b)(3) removes the requirement that the Parole Commission issue decisions within the guidelines for those prisoners who remain within the Commission's jurisdiction after October 31, 1992 and authorize the Commission to make decisions within and outside of the paroling guidelines pursuant to the established paroling policy contained at 18 U.S.C. 4206 (1976). The amended interpretive regulation is intended to reflect these changes to section 235(b)(3). Specifically, the Commission interprets the release provisions of section 235(b)(3) (as amended by the Sentencing Act of 1987) as (a) applying to persons who will be incarcerated on October 31, 1992 (the day before the fifth anniversary of the effective date of the sentencing Reform Act of 1984); (b) not requiring release dates to be set any earlier than three months before October 31, 1992; and (c) not allowing the Commission to set a release date which would conflict with the parole eligibility or ineligibility provisions of a prisoner's sentence; (d) no longer requiring the Parole Commission to make decisions within the applicable parole guideline range or those persons who will still be incarcerated after October 31, 1992 and specifically authorizing the Commission to make decisions outside of its guideline ranges where appropriate as it has done in the past.

EFFECTIVE DATE: August 3, 1988.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Attorney, United States Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: Section 235(b)(3) of the Sentencing Reform Act, as amended by the Sentencing Act of 1987 reads as follows.

The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction on the day before the expiration of five years after the effective date of this Act pursuant to Section 4206 of Title 18 United States Code. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with the Parole Commission's procedures, before the expiration of five years following the effective date of this Act.

The amendments to section 235(b)(3) were intended to clear up any confusion as to the appropriate procedures for the Parole Commission's actions pending its scheduled dissolution on October 31,

1992. The amendment makes clear the proposition that the Parole Commission is to make parole release decisions for those persons who committed their offenses prior to November 1, 1987 and are still in custody pursuant to the same policies and procedures that it had employed in the past.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Probation and parole, Prisoners.

28 CFR Part 2 is amended as follows:

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR 2.64 is revised to read as follows:

§ 2.64 **Sentencing Reform Act.**

(a) It is the Commission's interpretation of section 235(b)(3) of the Sentencing Reform Act of 1984 (Chapter II of the Comprehensive Crime Control Act of 1984), as amended by the Sentencing Act of 1987, that persons who will be incarcerated at the expiration of five years after the effective date of the Sentencing Reform Act, and whose sentences provide for parole eligibility shall, before the expiration of that five-year period, be given release dates by the Commission pursuant to 18 U.S.C. 4206. Thus, the Commission may continue to make decisions outside of its guideline ranges where appropriate.

(b) The release dates required by section 235(b)(3) need not be set any earlier than the time required to allow an administrative appeal within the five-year period; i.e., three to six months before the end of that period.

(c) Section 235(b)(3) does not apply to persons who will be on parole or mandatory release supervision at the expiration of the five-year period.

(d) Section 235(b)(3) does not change the parole eligibility date established by a prisoner's sentence and does not confer parole eligibility on prisoners whose sentences do not provide any eligibility for parole.

Date: April 25, 1988.

Benjamin F. Baer,
Chairman, United States Parole Commission.
[FR Doc. 88-17450 Filed 8-2-88; 8:45 am]
BILLING CODE 4410-01-M