9629, made application by renewal, which was received for processing February 14, 1997, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of sufentanil (9740), a basic class of controlled substance in Schedule II.

The firm plans to manufacture the listed controlled substance for bulk distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 27, 1997.

Dated: February 28, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–7879 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 95–25]

Jesus R. Juarez, M.D. Revocation of Registration

On February 27, 1995, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Jesus R. Juarez, M.D. (Respondent), of Fresno, California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BJ0925290, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged as grounds for the proposed action that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4), and that pursuant to 21 U.S.C. 824(a)(2), Respondent had been convicted of a controlled substance related felony offense.

Respondent, through counsel, filed a timely request for a hearing, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held on February 27 and 28, 1996, in Fresno, California. After the hearing, both parties submitted proposed findings of fact, conclusions of law and argument. On July 24, 1996, while the matter was still pending before Judge Bittner, counsel for the Government filed a Motion for Summary Disposition, alleging that Respondent is currently without authority to handle controlled substances in the State of California. The motion was supported by a copy of the Proposed Decision of an Administrative Law Judge for the Medical Board of California recommending that Respondent's state license to practice medicine be revoked, and by a copy of the Decision of the Medical Board dated July 10, 1996, adopting the Proposed Decision effective August 9, 1996.

Respondent filed a response to the Government's Motion for Summary Disposition on August 15, 1996, stating that the Medical Board's decision was not yet final because Respondent had petitioned for a rehearing, and if unsuccessful, would seek judicial review of the Medical Board's action. Respondent, however, did not deny that he was currently without authority to handle controlled substances in the State of California.

Thereafter, on August 21, 1996, Judge Bittner issued her Opinion and Recommended Decision, finding that based upon the evidence before her, Respondent lacked authorization to handle controlled substances in the State of California and therefore, he was not entitled to a DEA registration in that state; granting the Government's Motion for Summary Disposition; and recommending that Respondent's application for DEA registration be denied. Neither party filed exceptions to her opinion, and on September 23, 1996, Judge Bittner transmitted the record of these proceedings to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that on June 20, 1996, an Administrative Law Judge for the Medical Board of California recommended that Respondent's license to practice medicine in the State of California be revoked. On July 10, 1996, the Medical Board of California adopted the Proposed Decision of the Administrative Law Judge effective August 9, 1996. As Judge Bittner noted, it is reasonable to infer ''that because [Respondent] is not authorized to practice medicine, he is also not authorized to handle controlled substances.'' Respondent argues that the revocation of his license to practice medicine in the State of California is not yet final because he is seeking a rehearing before the Medical Board. However, Respondent does not dispute that he is currently without authority to handle controlled substances in California.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. 21 U.S.C. 801(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 Fed. Reg. 49,195 (1992). Accordingly, the Acting Deputy Administrator concurs with Judge Bittner's conclusion that Respondent is not currently authorized to handle controlled substances in the State of California and therefore is not entitled to a DEA registration in that state. The Acting Deputy Administrator concurs with Judge Bittner's recommendation that Respondent's application be denied, but also finds that Respondent's DEA registration must be revoked based upon his lack of authorization to handle controlled substances in California.

The Acting Deputy Administrator finds that Judge Bittner properly granted the Government's Motion for Summary Disposition. Here, the parties did not dispute the fact that Respondent was unauthorized to handle controlled substances in California. Therefore, it is well-settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See Dominick A. Ricci, M.D., supra, (finding it well settled that where there is no question of material fact involved, a plenary, adversarial administrative hearing was not required.); see also Phillip E. Kirk, M.D., 48 Fed. Reg. 32,887 (1983), aff'd sub nom *Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977).

The Acting Deputy Administrator concludes that because Respondent is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, it is unnecessary to address whether Respondent's registration should be revoked based upon the grounds alleged in the Order to Show Cause.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BJ0925290, previously issued to Jesus R. Juarez, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration be, and they hereby are, denied. This order is effective April 28, 1997.

Dated: March 14, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–7881 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 13, 1996, Knight Seed Company, Inc., 151 W. 126th Street, Burnsville, Minnesota 55337, made application, which was received for processing January 29, 1997, to the Drug Enforcement Administration to renew its registration as an importer of marihuana (7360), a basic class of controlled substance in Schedule I.

This application is exclusively for the importation of marihuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: February 21, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–7874 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 27, 1997, Mallinckrodt Chemical, Inc., Wallinckrodt & Second Streets, St. Louis, Missouri 63147, made application by renewal which was received for processing on March 4, 1997, to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

The firm plans to import the listed controlled substances to manufacture bulk finished products.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed, in quintuplicate, to the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 28, 1997.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 14, 1997.

Terrance W. Woodworth,

Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–7877 Filed 3–27–97; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby