

An application for a base transfer shall be on a form approved by the market administrator and signed by the baseholder or the baseholder's heirs and the person or persons to whom the base is to be transferred. If a base is held jointly, the application must be signed by all joint holders or their heirs.

(b) A producer who transferred base on or after February 1 may not receive by transfer additional base that would be applicable during March through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of the base to be applicable during March through June of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased up to 90 percent of such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (e)(1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the producer's control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk of the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the producer from supplying milk from the farm to a plant.

§ 1046.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from such producer of the base established by the producer. In lieu of notifying each individual producer-member of a cooperative association, the market administrator shall notify the cooperative association of each member's base if requested to do so by the cooperative association.

Signed at Washington, D.C., on April 22, 1983.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Controlled Substances; Buprenorphine

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: This is notice of a hearing with respect to a proposed rulemaking which would remove the substance buprenorphine from Schedule II and place it in Schedule V of the schedules established by the Controlled Substances Act (21 U.S.C. 801 *et seq.*). Notice of the proposed rulemaking was published in the *Federal Register* on September 20, 1982 at 47 FR 41401.

DATES: Interested persons desiring to participate in the hearing must give written notice of such desire as set out below on or before May 31, 1983. The hearing will commence on Tuesday, June 14, 1983 at 10:00 a.m. e.d.t. at the place specified below.

ADDRESS: Notices of desire to participate in the hearing are to be sent to: Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, 1405 I Street, N.W., Room 1100, Washington, D.C. 20537.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie Baltz, Hearing Clerk, Drug Enforcement Administration, Washington, D.C. 20537. Telephone (202) 633-1350.

SUPPLEMENTARY INFORMATION: On September 20, 1982 a Notice of Proposed Rulemaking was published in the *Federal Register* (47 FR 41401) giving notice that the Acting Administrator of the Drug Enforcement Administration (DEA) proposed to reschedule the narcotic drug buprenorphine from Schedule II to Schedule V of the Controlled Substances Act (21 U.S.C. 801 *et seq.*) as the result of the receipt of a letter from the Department of Health and Human Services (DHHS) recommending such action. It was pointed out that, if this rescheduling were effected by rule, buprenorphine would be subject to the controls for schedule V substances on its manufacture, distribution, dispensing, security, registration, recordkeeping, inventory, exportation and importation.

Interested persons were invited to submit comments or objections and requests for a hearing if a hearing was considered to be warranted, on or before November 19, 1982.

Comments were received from the Committee on Problems of Drug Dependence and from the American Society of Hospital Pharmacists. The Committee expressed the view that, for scheduling purposes, it would be most equitable to treat buprenorphine identically to nalbuphine and butorphanol. The Society expressed the view that placement of buprenorphine in Schedule V is clearly proper.

Reckitt and Colman, Ltd. responded through counsel, advising that they hold the United States and foreign patents for buprenorphine. They asserted that buprenorphine is not properly subject to any regulatory control under the Controlled Substances Act (the Act) because the substance does not possess sufficient potential for abuse to justify control. They also asserted that buprenorphine is not a "narcotic drug" as defined in the Act. They requested a hearing on the issues:

1. Can or should buprenorphine be subject to regulatory controls under Schedule V of the Act?

2. If subjected to control under the Act, can or should buprenorphine be controlled as a "narcotic drug"?

Reckitt and Colman, Ltd. further advised that they would present factual evidence and expert testimony on those issues at the hearing.

On March 28, 1983, the Acting Deputy Administrator of DEA referred the matter to the agency's Administrative Law Judge, Francis L. Young, to conduct a hearing on the issues raised by Reckitt and Colman and such others as might be raised. The judge was directed to report his findings, conclusions and other

recommendations directly to the Acting Administrator upon conclusion of the proceedings. In addition, the judge was advised that the Food and Drug Administration of DHHS has referred the matter of the scheduling of buprenorphine back to its Drug Abuse Advisory Committee for further consideration.

Accordingly, notice is hereby given that the hearing in connection with this proposed rescheduling will commence on Tuesday, June 14, 1983 at 10:00 a.m. EDT in Courtroom 3-B, Room 309, United States Claims Court, 717 Madison Place, NW., Washington, D.C. and will continue until all interested persons desiring to participate, who have given notice of such desire as prescribed below, have been heard. The hearing will be conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and 21 CFR 1308.41.

Every interested person desiring to participate in the hearing, including DEA agency counsel, on behalf of the agency staff, shall file a written notice of intention to participate, in duplicate, with the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration 1405 I Street, NW., Washington, D.C. 20537, within thirty days after the date of publication of this notice of hearing in the *Federal Register*. Each notice of intention to participate must be in the form prescribed in 21 CFR 1316.48. Reckitt and Colman, Ltd., having filed a request for hearing, need not file a notice of intention to participate.

The proceedings at the first hearing session, on June 14, 1983, will be limited to a preliminary discussion to identify parties and issues and positions, and to determine procedures and set dates and locations for further proceedings.

Dated: April 20, 1983.

Francis M. Mullen, Jr.,
Acting Administrator.

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POSTAL SERVICE

39 CFR Part 265

Freedom of Information Act; Disclosure of Street Addresses of Post Office Boxholders

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service wishes to clarify the circumstances under which the street address of a post office boxholder will be furnished when needed to effect service of legal process.

It has been the intent of the Postal Service to release such information to persons empowered by law to serve legal process, but only when a legal action has, in fact, been commenced, often by an appropriate filing with the clerk of court. Our underlying purpose has been to protect the privacy of Postal Service customers who elect to use post office boxes, while not permitting such use to become a means of avoiding or evading the obligation to respond to legal process.

As presently written, however, the pertinent Postal Service regulation does not literally state that disclosure of a street address will be made only after an action has been commenced, and may conceivably be interpreted to mean that disclosure will be made in order to commence an action. The proposed amendment is designed to remedy this situation, and also provides that street address information may be disclosed, when the prerequisite conditions are met, to attorneys (whether or not authorized to serve process) who represent the parties on whose behalf service is to take place, as well as to persons who are actually authorized to serve process.

DATE: Comments must be received on or before May 27, 1983.

ADDRESS: Written comments should be addressed to Jerry Belenker, Law Department, United States Postal Service, 475 L'Enfant Plaza West, S.W., Washington, DC 20260-1113. Copies of all written comments received will be available for public inspection and photocopying in Room 1P-602 at the above address between 9:30 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jerry Belenker, (202) 245-4616.

SUPPLEMENTARY INFORMATION: On February 19, 1975, the Postal Service published its existing regulation on the disclosure of boxholder information to persons empowered to serve legal process. 40 FR 7331. The regulation, at 39 CFR 265.6(d)(5)(ii), was one of several provisions designed to balance the privacy rights of Postal Service customers, under the Privacy Act and related provisions of the Postal Reorganization Act, with the legitimate interests of persons seeking information under the Freedom of Information Act. Since publication of the regulation, some concern has been expressed that disclosure of a boxholder's street address, in the absence of documentation that the information is needed in connection with litigation which has actually been commenced, could result in harassment, unwanted commercial solicitation, or other abuses.

Although it is recognized that the commencement of litigation could, in some instances, be frustrated by the absence of a street address, it is considered unlikely that there would be numerous instances of this problem. Moreover, a significant proportion of such cases would, presumably, involve prospective litigation with persons who utilize post office boxes for the purpose of doing or soliciting business with the public. The recorded names and addresses of such persons are presently disclosable, as set out in 39 CFR 265.6(d)(4), and it is not proposed to change the latter regulation.

In view of the considerations discussed above, the Postal Service proposes to amend 39 CFR as follows:

List of Subjects in 39 CFR Part 265

Freedom of information, Postal Service.

(39 U.S.C. 401; 5 U.S.C. 552)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

PART 265—RELEASE OF INFORMATION

In § 265.6, revise paragraph (d)(5)(ii) to read as follows:

§ 265.6 Availability of records.

* * * * *

(d) * * *

(5) Except as provided in paragraph (d)(4) of this section above, the name or address of the boxholder or other recorded information about the boxholder will be furnished only to:

* * * * *

(ii) A person empowered by law to serve legal process, or the attorney for the party in whose behalf service will be made, upon receipt of written information that specifically includes: the statute or regulation under which service of legal process is authorized; the name of the case for which the boxholder information is requested, and the court in which it has been commenced; the docket or other identifying number issued by the court; the capacity in which the boxholder is to be served, e.g., defendant or witness; and the specific process to be served, e.g., summons and complaint, subpoena, or other process. By submitting such information, the requester certifies that it is true.

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