

business. The Deputy Administrator notes that the DEA registers many mail order and high volume retail pharmacies that dispense quantities of controlled substances far in excess of those distributed by the Respondent. These pharmacies also ship nationwide as does the Respondent. They differ from the Respondent, however, because they dispense controlled substances directly to the patient or ultimate user. These retail pharmacies do not manufacture or even compound the majority of the controlled substances that they handle. They do not distribute controlled substances to physicians and other practitioners. The Respondent's high volume and out-of-state shipping are included as descriptions of the nature of its business.

The Respondent also objects to the Administrative Law Judge's use of a DEA Report of Investigation, which was entered into evidence, as the source of many factual findings in the ALJ's Findings of Fact. While the report is the record of a diversion investigator's findings, those conclusions are supported by the records submitted into evidence by both the agency and the Respondent. The Deputy Administrator does not accord significant weight to the many recordkeeping violations cited in the report and the Order to Show Cause. The primary focus of this decision rests on the Respondent's acting outside the scope of its DEA registration even after being advised that it was doing so by DEA. The facts supporting this conclusion are not in dispute.

The Deputy Administrator concludes that the Respondent's activities of manufacturing and distributing controlled substances without the appropriate DEA Certificate of Registration, of its continued activity even when advised by the agency in writing that its activities were in violation of the statute, demonstrate that the Respondent's continued registration with DEA is inconsistent with the public interest. The Respondent is distributing more than one million dosage units of controlled substances a year to customers across the country. Because it is not registered as a manufacturer or distributor of controlled substances, it is not subject to the security and recordkeeping requirements for that type of registrant. The evidence in the record documents two thefts of controlled substances from the Respondent during 2002. Security requirements for dispensers of controlled substances are fairly minimal and include that the controlled substances may be intermingled with non-controlled substances. No type of alarm system is required. Manufacturers

of controlled substances are required to store Schedule III through V raw materials, bulk materials awaiting processing, and finished products in a safe, vault, a building, room or caged area with limited access and self-closing, self-locking doors. These areas must be equipped with an electronic alarm system which is connected to a central station. Recordkeeping and reporting requirements required of manufacturers are much more stringent than those for dispensers of controlled substances.

Accordingly, the Deputy Administrator of the DEA, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.014, hereby orders that DEA Certificate of Registration AW1289126, issued to Wedgewood Village Pharmacy, be, and is, hereby revoked. The Deputy Administrator further orders that any pending application for renewal or modification of such registration be, and they hereby are, denied.

This order is effective May 3, 2006.

Dated: March 22, 2006.

**Michele M. Leonhart,**

*Deputy Administrator.*

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**BILLING CODE 4410-09-P**

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## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Sunshine Act; Meeting

March 22, 2006.

**TIME AND DATE:** 10 a.m., Thursday, April 6, 2006.

**PLACE:** The Richard V. Backley hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The commission will consider and act upon the following in open session: *Secretary of Labor on behalf of Wendell McClain, Coy McClain, Wade Dameron, and Gary Conway v. Misty Mountain Mining, Inc., Stanley Osborne, and Simon Ratliff*, Docket Nos. KENT 2005-96-D, KENT 2005-97-D, KENT 2005-98-D, and KENT 2005-99-D. (Issues include whether the Administrative law Judge properly awarded back pay in an amount reduced from that sought by the Secretary, and properly concluded that the complainants were not entitled to a further reinstatement offer once they had turned down such offers).

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform

the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**FOR FURTHER INFORMATION CONTACT:** Jean Ellen, (202) 434-9950/(202) 708-8300 for TDD Relay/1-800-8339 for toll free.

**Jean H. Ellen,**

*Chief Docket Clerk.*

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 06-022]

### U.S. Space-Based Positioning, Navigation, and Timing Advisory Board; Notice of Establishment of a NASA Advisory Committee, pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. §5 1 et seq.

**AGENCY:** National Aeronautics and Space Administration (NASA).

**Explanation of Need:** The President authorized a new national policy on December 8, 2004 that establishes guidance and implementation actions for space-based positioning, navigation, and timing programs, augmentations, and activities for U.S. national and homeland security, civil, scientific, and commercial purposes. The policy supersedes Presidential Decision Directive/National Science and Technology Council-6, U.S. Global Positioning System Policy, dated March 28, 1996. The new national policy states that a space-based Positioning, Navigation, and Timing Advisory Board shall be established. The Advisory Board shall be comprised of experts from outside the United States Government, and shall be chartered as a Federal Advisory Committee. In accordance with the new national policy, the NASA Administrator is establishing the U.S. Space-Based Positioning, Navigation, and Timing Advisory Board. This notice follows consultation with the Committee Management Secretariat, General Services Administration.

**Name of Committee:** U.S. Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board.

**Purpose and Objective:** The U.S. Space-Based Positioning, Navigation, and Timing Advisory Board will provide advice on U.S. space-based PNT policy, planning, program management, and funding profiles in relation to the current state of national and international space-based PNT services. The U.S. Space-Based Positioning, Navigation, and Timing Advisory Board