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CHAPTER 7

ADMINISTRATIVE INSPECTIONS

Section 1. Procedures.

Procedures regarding administrative inspections and warrants pursuant to Sections 30 and 46 of the Act (Sections 302 and 502 of the Federal Act) are governed generally by those sections and specifically by the sections of this Chapter.

Section 2. Authority to Make Inspections.

In carrying out their functions under the Act, the Board, and the Commissioner, and their duly authorized agents are authorized in accordance with Section 46 of the Act (Section 502 of the Federal Act) to enter controlled premises and conduct administrative inspections thereof, for the purpose of:

(a) Inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under the Act and regulations promulgated under the Act, including, but not limited to, inventory and other records required to be kept pursuant to Chapter 4 of these regulations; prescription and distribution records required to be kept pursuant to Chapter 6 of these regulations; shipping records identifying the name of each carrier used, and the date and quantity of each shipment, and storage records identifying the name of each warehouse used and the date and quantity of each storage.

(b) Inspecting within reasonable limits and in a reasonable manner all pertinent equipment, finished and unfinished controlled substances and other substances or materials, containers, and labeling found at the controlled premises relating to this Act;

(c) Making a physical inventory of all controlled substances on hand at the premises;

(d) Collecting samples of controlled substances or precursors (in the event any samples are collected during an inspection, the authorized agent shall issue a receipt for such samples) to the owner, operator, or agent in charge of the premises;

(e) Checking of records and information on distribution of controlled substances by the registrant as they relate to total distribution of the registrant (i.e., has the distribution in controlled substances increased markedly within the past year, and if so, why?); and

(f) Except as provided in Section 3, all other things therein (including records, files, papers, processes controls and facilities) appropriate for verification of the records, reports, documents referred to above or otherwise bearing on the provisions of the Act and the regulations thereunder.

Section 3. Exclusion from Inspection.

Unless the owner, operator or agent in charge of the controlled premises so consents in writing, no inspection authorized by these regulations shall extend to:

(a) Financial data;

(b) Sales data other than shipping data; or

(c) Pricing data.

Section 4. Entry.

An inspection shall be carried out by an authorized agent. Any such authorized agent, upon (a) stating his purpose, and (b) presenting to the owner, operator, or agent in charge of the premises to be inspected (1) appropriate credentials, and (2) written notice of his inspection authority under Section 5 of these regulations, and (c) receiving informed consent under Section 7 or through the use of administrative warrant issued under Sections 8 through 13 shall have the right to enter such premises and conduct inspections at reasonable times and in a reasonable manner.

Section 5. Notice of Inspection.

The notice of inspection form shall contain:

(a) The name and title of the owner, operator, or agent in charge of the controlled premises;

(b) The controlled premises name;

(c) The address of the controlled premises to be inspected;

(d) The date and time of the inspection;

(e) A statement that a notice of inspection is given pursuant to Section 46 of the Act (Section 502 of the Federal Act);

(f) A reproduction of the pertinent parts of Section 46 of the Act (Section 502 of the Federal Act); and

(g) The signature of the authorized agent.

Section 6. Requirement for Administrative Inspection Warrant; Exceptions.

In all cases where an inspection is contemplated, an Administrative Inspection Warrant is required pursuant to Section 46 of the Act (Section 502 of the Federal Act), except that such warrant shall not be required for establishments applying for initial registration under the Act, for the inspection of books and records pursuant to an administrative subpoena issued in accordance with the Wyoming Administrative Procedures Act, Section 16-3-107, nor for entries in administrative

inspections (including seizures of property):

(a) With the consent of the owner, operator, or agent in charge of the controlled premises as set forth in Section 7;

(b) In situations presenting imminent danger to health or safety;

(c) In situations involving inspection of conveyances where there is reasonable cause to obtain a warrant;

(d) In any other exceptional or emergency circumstance or time or opportunity to apply for a warrant is lacking; or

(e) In any other situations where a warrant is not constitutionally required.

Section 7. Consent to Inspection.

(a) An Administrative Inspection Warrant shall not be required if informed consent is obtained from the owner, operator, or agent in charge of the controlled premises to be inspected.

(b) Wherever possible, informed consent shall consist of a written statement signed by the owner, operator, or agent in charge of the premises to be inspected and witnessed by two persons. The written consent shall contain the following information:

(i) That he (the owner, operator, or agent in charge of the premises) has been informed of his constitutional right not to have an administrative inspection made without an Administrative Inspection Warrant;

(ii) That he has a right to refuse to consent to such an inspection;

(iii) That anything of an incriminating nature which may be found may be seized and used against him in a criminal prosecution;

(iv) That he has been presented with a notice of inspection as set forth in Section 5;

(v) That the consent given by him is voluntary and without threats of any kind; and

(vi) That he may withdraw his consent at any time during the course of inspection. The written consent shall be produced in duplicate and be distributed as follows:

(a) The original will be retained by the authorized agent;
(b) The duplicate will be given to the person inspected.

Section 8. Application for Administrative Inspection Warrant.

(a) An Administrative Inspection Warrant application shall be submitted to any District Court Judge or District Court Commissioner and shall contain the following information:

(i) The name and address of the controlled premises to be inspected;

(ii) A statement of statutory authority for the Administrative Inspection Warrant, and that the fact that the particular inspection in question is designed to ensure compliance with the Act and the regulations promulgated thereunder;

(iii) A statement relating to the nature and extent of the administrative inspection, including, where necessary, a request to seize specified items and/or to collect samples of finished or unfinished controlled substances;

(iv) A statement that the establishment either:

(A) has not been previously inspected, or

(B) was last inspected on a particular date.

(b) The application shall be submitted under oath to an appropriate judge or magistrate.

Section 9. Administrative Probable Cause.

If the District Judge or District Court Commissioner is satisfied that "administrative probable cause," as defined in Section 46 (a)(i) of the Act (Section 502(a)(1) of the Federal Act) exists, he shall issue an administrative warrant. Administrative probable cause shall not mean criminal probable cause as defined by State or Federal statute or case law.

Section 10. Execution of Warrants.

An Administrative Inspection Warrant shall be executed and returned as required by, and any inventory or seizure made shall comply with the requirements of Section 46(a)(iii) of the Act (Section 502 (a)(3) of the Federal Act). The inspection shall begin as soon as is practicable after the issuance of the Administrative Inspection Warrant and shall be completed with reasonable promptness. The inspection shall be conducted during regular business hours and shall be completed in a reasonable manner.

Section 11. Refusal to Allow Inspection with an Administrative Warrant.

If a registrant or any person subject to the Act refuses to permit execution of an Administrative Warrant or impedes the authorized agent in the execution of that warrant, he shall be advised that such refusal or action constitutes a violation of Section 32(a)(iv) of the Act (Section 404 (a)(4) of the Federal Act). If he persists and the circumstances warrant, he shall be arrested and the inspection shall commence or continue.