the public interest at this time. DEA has investigated Cayman Chemical Company to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed is granted.

Dated: March 3, 2004.

William J. Walker,

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

[FR Doc. 04–5470 Filed 3–10–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated September 2, 2003, and published in the **Federal Register** on October 24, 2003, (68 FR 61013), Chemic Laboratories, Inc., 480 Neponset Street, Building 7C, Canton, Massachusetts 02021, made application by renewal to the Drug Enforcement Administration for registration as a bulk manufacturer of Cocaine (9041), a basic class of Schedule II controlled substance.

The firm plans to manufacture small quantities of cocaine derivative for distribution to a customer.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Chemic Laboratories, Inc., to manufacture the listed controlled substance is consistent with the public interest at this time. DEA has investigated Chemic Laboratories, Inc., to ensure that the company's registration is consistent with the public interest. This investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Division Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed is granted.

Dated: March 3, 2004.

William J. Walker,

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

[FR Doc. 04–5475 Filed 3–10–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Direct Wholesale Denial of Application

On February 25, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Direct Wholesale proposing to deny its application executed on July 27, 2001, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged that granting the application of Direct Wholesale would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(h) and 824(a). The Order to Show Cause also notified Direct Wholesale that should no request for a hearing be filed within 30 days, its hearing right would be deemed waived.

According to the DEA investigative file, the Order to Show Cause was sent by certified mail to Direct Wholesale at its proposed registered location in Jacksonville, Florida and was received on March 7, 2003. DEA has not received a request for hearing or any other reply from Direct Wholesale or anyone purporting to represent the company in this matter.

Therefore, the Acting Deputy Administrator of DEA, finding that (1) thirty days having passed since the delivery of the Order to Show Cause to the applicant's last known address, and (2) no request for hearing having been received, concludes that Direct Wholesale has waived its hearing right. *See* Aqui Enterprises, 67 FR 12576 (2002). After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1309.53(c) and (d) and 1316.67 (2003). The Acting Deputy Administrator finds as follows:

List I chemicals are those that may be used in the manufacture of a controlled substance in violation of the Controlled Substances Act. 21 U.S.C. 802(34); 21 CFR 1310.02(a). Pseudoephedrine and ephedrine are list I chemicals used to illegally manufacture methamphetamine, a Schedule II controlled substance. Phenylpropanolamine, also a list I chemical, is presently a legitimately manufactured and distributed product used to provide relief of the symptoms resulting from irritation of the sinus, nasal and upper respiratory tract tissues, and is also used for weight control. Phenylpropanolamine is also a precursor chemical used in the illicit manufacture of methamphetamine and amphetamine. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is an ongoing public health concern in the United States.

The Acting Deputy Administrator's review of the investigative file reveals that DEA received an application dated July 27, 2001, from Direct Wholesale located in Jacksonville, Florida. The application was submitted on behalf of Direct Wholesale by its owner, Ronald Dean Petts (Mr. Petts). Direct Wholesale sought DEA registration as a distributor of the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. There is no evidence in the investigative file that Direct Wholesale has sought to modify its pending application in any respect.

Following receipt of the above application, on December 5, 2001, DEA diversion investigators conducted an on-site pre-registration inspection at Direct Wholesale's proposed registered location. Upon arrival, DEA investigators furnished and reviewed with Mr. Petts procedures for warning notices as they relate to various listed chemicals and procedures employed in the illicit manufacture of methamphetamine. DEA investigators also reviewed suspicious orders and recordkeeping procedures with Mr. Petts. In addition, Mr. Petts was furnished with a copy of the DEA Chemical Handler's Manual as well as relevant portions of the Methamphetamine Control Act.

DEA's investigation revealed that Direct Wholesale is a sole proprietorship, owned and operated by Mr. Petts. The firm is currently operated out of Mr. Petts' residence and has been in operation since March or April of 2001. Mr. Petts informed investigators that he sells cigars, lighters, and general merchandise. When asked by investigators why he was applying for registration to handle listed chemical products, Mr. Petts stated that many of his customers were expressing interest in buying these products from him.

DEA's investigation further revealed that aside from Mr. Petts, there are no

other employees of Direct Wholesale. Prior to opening his business, Mr. Petts sold food and clothing items, and he also operated a courier service. Mr. Petts informed DEA investigators that he has no prior experience with over-the-counter drug products, however, he estimated that the sale of list I chemical products would account for approximately five percent of his total sales. Mr. Petts further disclosed that he plans to sell cold and sinus products to convenience stores.

Mr. Petts was also asked by investigators to submit preliminary information regarding customers and suppliers of goods to Direct Wholesale. Mr. Petts supplied investigators the names of four listed chemical suppliers, as well as a list of thirty-four retail businesses. The customer list was comprised primarily of convenience stores. The customer list submitted by Mr. Petts was later compared to a customer list submitted by NTS, a separate firm that sought DEA registration to distribute listed chemical. The comparison showed that at least thirteen of NTS' customers were also listed as customers for Direct Wholesale. A DEA inspection of a customer list for a second retailer revealed at least nine entities that were also listed as customers of Direct Wholesale.

DEA's investigation further revealed that Direct Wholesale possesses a Florida occupational license for Mr. Petts' residence, and the firm is also registered with the Florida Department of Revenue to collect sales tax. However, according to Mr. Petts, his home is not zoned for business.

Pursuant to 21 U.S.C. 823(h), the Acting Deputy Administrator may deny an application for Certificate of Registration if she determines that granting the registration would be inconsistent with the public interest as determined under that section. Section 823(h) requires the following factors be considered in determining the public interest:

(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance with applicable Federal, State, and local law;

(3) Any prior conviction record under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

As with the public interest analysis for practitioners and pharmacies pursuant to subsection (f) of section 823, these factors are to be considered in the disjunctive; the Acting Deputy Administrator may rely on any one or combination of factors, and may give each factor the weight she deems appropriate in determining whether a registration should be revoked or an application for registration denied. *See, e.g.* Energy Outlet, 64 FR 14269 (1999). *See also* Henry J. Schwartz, Jr., M.D., 54 FR 16422 (1989).

The Acting Deputy Administrator finds factors two, four and five relevant to Direct Wholesale's pending registration application.

With regard to factor two, compliance with applicable Federal, State, and local law, the Acting Deputy Administrator notes that Florida state and county law requires zoning approval for the operation of a particular business. Mr. Petts informed DEA investigators that Direct Wholesale was not zoned for business. The failure to obtain a proper zoning permit for business purposes has been cited under factor two as a basis for the denial of an application for DEA registration to distribute list I chemicals. *See* Daniel E. Epps, Jr., 67 FR 9987 (2002).

With respect to factor four, the applicant's past experience in the distribution of chemicals, the Acting Deputy Administrator finds this factor relevant to Mr. Petts' lack of experience in the handling of list I chemical products. In prior DEA decisions, the lack of experience in the handling list I chemicals was a factor in a determination to deny a pending application for DEA registration. *See,* Matthew D. Graham, 67 FR 10229 (2002); Xtreme Enterprises, Inc., 67 FR 76195 (2002). Therefore, this factor similarly weighs against the granting of Direct Wholesale's pending application.

With respect to factor five, other factors relevant to and consistent with the public safety, the Acting Deputy Administrator finds this factor relevant to Direct Wholesale's proposal to distribute listed chemical products primarily to convenience stores. While there are no specific prohibitions under the Controlled Substance Act regarding the sale of listed chemical products to these entities, DEA has nevertheless found that business establishments such as gas stations and convenience stores constitute sources for the diversion of listed chemical products. *See, e.g.,* Sinbad Distributing, 67 FR 10232, 10233 (2002); K.V.M. Enterprises, 67 FR 70968 (2002) (denial of application based in part upon information developed by DEA that the applicant proposed to sell listed chemicals to gas stations, and the fact that these establishments in turn have sold listed chemical products to individuals engaged in the illicit manufacture of methamphetamine); Xtreme Enterprises, Inc., supra.

Factor five is also relevant to Direct Wholesale's proposal to distribute to potential customers that are apparently purchasing list I chemical products from other suppliers. The Acting Deputy Administrator also finds curious the specific requests for listed chemical products by Direct Wholesale's customers. DEA has previously found similar conduct by potential customers relevant under factor five. *See* Shop It For Profit, 69 FR 1311, 1313 (2004).

As noted above, there is no evidence in the investigative file that Direct Wholesale ever sought to modify its pending application with regard to listed chemical products it seeks to distribute. Among the listed chemical products that the firm seeks to distribute is phenylpropanolamine. In light of this development, the Acting Deputy Administrator also finds factor five relevant to Direct Wholesale's request to distribute phenylpropanolamine, and the apparent lack of safety associated with the use of that product. DEA has previously determined that an applicant's request to distribute phenylpropanolamine constitutes a ground under factor five for denial of an application for registration. Shani Distributors, 68 FR 62324 (2003). Based on the foregoing, the Acting Deputy Administrator concludes that granting the pending application of Direct Wholesale would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the pending application for DEA Certificate of Registration, previously submitted by Direct Wholesale be, and it hereby is, denied. This order is effective April 12, 2004.

Dated: February 20, 2004.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–5478 Filed 3–10–04; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Rory Patrick Doyle, M.D.; Revocation of Registration

On July 31, 2002, the then-Deputy Administrator of the Drug Enforcement Administration (DEA) issued a Notice of Immediate Suspension of Registration