The OTSC was received March 12, 2001, as indicated by the signed postal return receipt. Since that time, no further response has been received from the applicant nor any person purporting to represent the applicant. Therefore, the Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Mr. Epps is deemed to have waived his right to a hearing. After considering relevant material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds as follows. List I chemicals are chemicals 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, ephedrine, and phenylpropanolamine are List I chemicals that are commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

The Administrator finds that on or about May 2, 2000, an application was submitted by and on behalf of Daniel E. Epps, Jr., for DEA registration as a distributor of the List I chemical ephedrine. On July 26, 2000, Mr. Epps requested that his application be amended to include the List I chemicals pseudoephedrine and phenylpropanolamine.

During the July 29, 2000, pre-registration inspection, Mr. Epps informed a DEA investigator that he proposed to sell various products from his home, including List I chemical products. While Mr. Epps alleged he had 29 years of experience in the grocery/retail business, he admitted he had no experience in the handling of listed chemical products. Mr. Epps stated he planned to sell List I chemical products to convenience stores and gas stations. He also stated that he wished to distribute certain List I chemical products in 60 count bottles.

The DEA investigation showed that Mr. Epps' residence, where he proposes to conduct business, is not zoned for business purposes in Mecklenburg County, North Carolina. Additionally, as of the date of the July 26, 2000, inspection, Mr. Epps had not applied with the North Carolina State authorities for a Change of Use Permit for the operation of a business from his residence.

Pursuant to 21 U.S.C. 823(h), the Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(h) requires the following factors be considered:

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

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

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

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

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

Like 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 Administ6rator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See, e.g., Energy Outlet,* 64 FR 14,269 (1999). *see also Henry J. Schwartz, Jr., M.D.,* 54 FR 16,422 (1989).

Regarding factor one, the maintenance of effective controls against the diversion of listed chemicals, the DEA pre-registration inspection documented inadequate security at the proposed business location. Mr. Epps proposes to store List I chemical products in an unlocked room in the basement of his residence. The residence does not have any sort of alarm system, and the DEA investigation shows that the residence goes unoccupied for long periods of time. Moreover, Mr. Epps admittedly has no experience in handling List I chemicals.

Regarding factor two, the applicant's compliance with applicable law, the Administrator notes that the DEA investigation showed North Carolina State or local law requires zoning approval and a Change of Use Permit cooperate a business from this residence. Mr. Epps did not possess such a permit, and challenged DEA investigators when this lack was noted. There is no evidence in the investigative file that Mr. Epps ever applied for or received the required Change of Use Permit.

Regarding factor three, there is no evidence that Mr. Epps has any record of convictions related to controlled substances or to chemicals controlled under Federal or State law.

Regarding factor four, the applicant's past experience in the distribution of chemicals, the DEA investigation revealed that Mr. Epps has no previous experience in handling listed chemicals or distributing listed chemical products.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that due to the applicant's lack of experience in handling listed chemicals, a lack of adequate security at the proposed business location, and his failure to obtain the required zoning approval to operate a business from his residence, the Administrator concludes it would be inconsistent with the public interest to grant this application.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Mr. Daniel E. Epps, Jr. be denied. This order is effective April 4, 2002.

Dated: February 22, 2002.

Asa Hutchinson,

Administrator.

Certificate of Service

This is to certify that the undersigned, on February 25, 2002, placed a copy of the Final Order referenced in the enclosed letter in the interoffice mail addressed to Robert Walker, Esq., Office of Chief Counsel, Drug Enforcement Administration, Washington, DC 20537; and caused a copy to be mailed, postage prepaid, registered return receipt to Mr. Daniel E. Epps, Jr., 539 Walnut Point Drive, Matthews, North Carolina 28105.

Karen C. Grant.

[FR Doc. 02–5223 Filed 3–4–02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

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 § 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 31, 2001, ISP Freetown Fine Chemicals, 238 South Main Street, Assonet, Massachusetts 02702, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone to manufacture amphetamine.

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 1301.43 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, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 4, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(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 class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administration, 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 19, 2002.

Laura M. Nagel,

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

[FR Doc. 02–5218 Filed 3–4–02; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

North American Group Revocation of Registration

On July 29, 2000, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) to North American Group, located in Kissimmee, Florida, notifying it of a preliminary finding that, pursuant to evidence set forth therein, it was responsible for the diversion of large quantities of List I chemicals into other than legitimate channels. Based on these preliminary findings, and pursuant to 21 U.S.C. 824(d) and 28 CFR 0.100 and 0.104, the OTSC suspended North American Group's DEA Certificate of Registration, effective immediately, with such suspension to remain in effect until a final determine is reached in these proceedings. The OTSC informed North American Group of an opportunity to request a hearing to show cause as to why the DEA should not revoke its DEA Certificate of Registration, 004407NAY, and deny any pending applications for renewal or modification of such registration, for reason that such registration is inconsistent with the public interest, as determined by 21 U.S.C. 823(h). The OTSC also notified North American Group that, should no request for hearing be filed within 30 days, its right to a hearing would be considered waived.

On July 31, 2000, a copy of the OTSC was affixed to the front door of the business premises, since no one appeared to be present at the business. On this same date, a second copy of the OTSC was sent certified mail, return receipt requested, to North American Group. The mailed OTSC was returned marked ''attempted—unclaimed.'' No request for a hearing or any other response was received by DEA from North American Group nor anyone purporting to represent it in this matter. Therefore, the Administrator of the DEA, finding that (1) Thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes North American Group is deemed to have waived its right to a hearing. After considering relevant material from the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Administrator finds as follows. List I chemicals are chemicals 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 is a List I chemical that is commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a growing problem in the United States.

A ''regulated person'' is a person who manufactures, distributes, imports, or exports inter alia a listed chemical. 21 U.S.C. 802(38). A ''regulated transaction'' is inter alia a distribution, receipt, sale, importation, or exportation of a threshold amount of a listed chemical. 21 U.S.C. 802(39). The Administrator finds all parties mentioned herein to be regulated, and all transactions mentioned herein to be regulated transactions, unless otherwise noted.

The DEA investigation shows that Hesham Nabut (Nabut) is the owner and president of North American Group (NAG). On July 2, 1999, DEA conducted a preregistration inspection of NAG, and at that time provided Nabut with the DEA notices informing him that pseudoephedrine products are used in the illicit manufacture of methamphetamine; and that possession or distribution of a List I chemical knowing or having reasonable cause to believe it will be used to manufacture a controlled substance is a violation of the Controlled Substances Act.

DEA approved NAG's application for registration to distribute List I chemicals July 6, 1999. Between July 23, 1999, and September 30, 1999, NAg ordered approximately 2,592,000 pseudoephedrine tablets from one manufacturer. In October of 1999, NAG attempted to obtain an additional 3–4 million pseudoephedrine tablets from two other manufacturers.

On September 14 and 15, 1999, law enforcement personnel seized approximately 11,300 bottles of pseudoephedrine tablets from clandestine methamphetamine laboratories in California. Using the lot numbers on the seized bottles, DEA traced the product back to NAG. On October 15, 1999, DEA seized 4000 bottles of pseudoephedrine tablets form a clandestine methamphetamine laboratory in Los Angeles, California. Using the lot numbers on the seized bottles, DEA traced the product back to NAG.

In December of 1999, a DEA Confidential Source revealed that Hesham (last name unknown) and three other individuals shipped 16 boxes, with an aggregate weight of 1000 pounds, to Portland, Oregon. On