anticipation of fleeing the United States to avoid arrest.

The Administrator finds the Confidential Source information provides substantial evidence that NAG and Nabut are in violation of 21 U.S.C. 841(d)(1) (possession of a listed chemical with intent to manufacture a controlled substance); 841(d)(2) (possession/distribution of a listed chemical knowing or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance); 841(g)(1) (knowing distribution of a listed chemical in violation of the Controlled Substances Act); 841(g)(2) (possession of a listed chemical with knowledge that recordkeeping or reporting requirements not adhered to); 842(a)(5) and (10) (failure to keep required records). (**Note:** subparagraphs (d) and (g) have been redesignated as (c) and (f)). Therefore, the Administrator finds NAG and Nabut significantly violated applicable federal law.

Regarding the third factor, any prior conviction record under Federal or State laws relating to controlled substances or chemicals, there is not evidence that NAG or Nabut has any record of convictions under Federal or State laws relating to controlled substances or chemicals.

Regarding the fourth factor, past experience in the manufacture and distribution of chemicals, the Administrator finds NAG and Nabut significantly violated applicable law, as set forth in factor two above, and further, failed to adequately protect against the diversion of a substantial quantity of a List I chemical, as set forth in factor one, above.

Regarding the fifth factor, such other factors relevant to and consistent with the public safety, the Administrator finds substantial evidence that NAG and Nabut significantly violated applicable law by actively participating in the diversion of pseudoephedrine to the manufacture of methamphetamine, and the falsification of records to conceal such activity. Furthermore, Nabut has fled the United States in anticipation of possible prosecution for his crimes.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration 004407NAY, previously issued to North American Group, be, and it hereby is, revoked; and any pending applications for renewal or modification of such registration be, and hereby are, 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 Linden Barber, 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. Hesham Nabut, North American Group, 2792 Michigan Avenue, Suite 406, Kissimmee, Florida 34744.

Karen C. Grant.

[FR Doc. 02–5219 Filed 3–4–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Paragon Associates; Denial of Application

On or about May 4, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Paragon Associates (Paragon), located in City of Industry, California, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated April 23, 1999, for a DEA Certificate of Registration as an exporter of the List I chemical phenylpropanolamine (PPA), pursuant to 21 U.S.C. 823(h), as being inconsistent with the public interest. The order also notified Paragon that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received May 16, 2001, as indicated by the signed postal receipt. On June 7, 2001, DEA received a letter from Paragon, purportedly responding to the issues set forth in the OTSC. This letter did not address whether Paragon would request or waive its right to the hearing. 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 Paragon 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 has considered Paragon's letter received June 7, 2001, pursuant to 21 CFR 1309.53(b).

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). PPA 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.

The Administrator finds that on April 23, 1999, an application was received by the DEA Chemical Operations Registration section on behalf of Paragon for DEA registration as an exporter of the List I chemical phenylpropanolamine (PPA).

On June 17, 1999, DEA investigators conducted a pre-registration investigation of Paragon's proposed business premises, and interviewed the president, Mr. George Fan. Mr. Fan stated that Paragon had been an exporter of vitamins and food supplements since 1997, and now intended to export the List I chemicl PPA to a firm in Taipei, Taiwan.

DEA investigators were unable to verify the existence of Paragon's intended customer because of misleading information provided by Mr. Fan. The DEA investigation revealed Paragon had submitted an application for a permit to handle listed chemicals to the State of California, Bureau of Narcotic Enforcement (BNE). BNE records revealed that Paragon intended to export listed chemicals to China, not Taiwan. The DEA investigation further revealed BNE did not issue a permit to Paragon to allow listed chemicals to enter California.

The DEA investigation also revealed that neither Paragon nor its intended customer have been authorized by the Government of Taiwan to import any listed chemicals. DEA subsequently learned that Paragon had submitted an order to a U.S. supplier of PPA in June of 1999 and offered a copy of its application for DEA registration as proof of registration, despite Paragon's never having been registered to handle listed chemicals. Finally, the DEA investigation revealed that in 1997 and 1998, Paragon acquired domestic supplies of PPA without being authorized to do so, and shipped the chemicals without filing the required

export declaration with DEA, in violation of applicable law.

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 Administrator 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 Administrator finds that the DEA investigation revealed significant violations with regard to the applicant's security and recordkeeping arrangements. On July 9, 1998, Paragon purchased 485,000 PPA 75 mg. capsules from a supplier located in New York; and on March 5, 1999, Paragon purchased an additional 488,000 capsules of the same product from the same supplier. Mr. Fan admitted these chemicals were exported to Taiwan. Paragon failed to keep records of these regulated transactions, in violation of 21 U.S.C. 830(a) and 21 CFR 1310.03(a); 1310.04; and 1310.06. Paragon was a regulated person as defined by 21 U.S.C. 802(38) as a distributor and exporter of listed chemicals, and thus was required to keep records of regulated transactions. 21 U.S.C. 802(39)(A).

Regarding factor two, the applicant's compliance with applicable law, the Administrator finds that the evidence shows that Pentagon significantly violated applicable law by distributing List I chemicals on at least two separate occasions as set forth in the preceding factor, when not registered to do so, in violation of 21 U.S.C. 822 and 843(a)(9) and 21 CFR § 1309.21(a). In addition, Paragon exported List I chemicals without a DEA registration in violation of 21 U.S.C. 957(a)(2), and further failed to declare these exportations on the DEA Form 486, as required by 21 CFR 1313.21.

Regarding factor three, there is no evidence that Paragon nor Mr. George Fan 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 Administrator finds that the DEA investigation revealed that the applicant significantly violated applicable law, as set forth in factors one and two. In addition, Paragon exported List I chemicals without a DEA registration in violation of 21 U.S.C. 957(a)(2), and further failed to declare these exportations on the DEA Form 486, as required by 21 CFR 1313.21. The DEA investigation further revealed that pursuant to the State of California Health and Safety Code, Section 111001.1, businesses are required to report to BNE imports and exports of products containing PPA 21 days prior to the transaction date. Paragon never notified BNE of its PPA imports into California, set forth in factor one.

Regarding factor five, other factors relevant to and consistent with the public safety, the Administrator finds that Paragon significantly violated applicable law by distributing and exporting List I chemicals without being registered to do so, and by failing to keep and maintain required records of regulated List I chemicals transactions.

The DEA investigation further revealed Mr. Fan was not forthcoming with information concerning his customers. In response to questions, Mr. Fan provided misleading and incomplete information. Mr. Fan's proposed distribution network led through a number of parties whose relationships were not clear, and concerning whose relationships Mr. Fan failed to provide information. When specifically asked, Mr. Fan was unable to adequately describe Paragon's proposed distribution network. The investigation also revealed that Paragon's proposed Taiwan customer did not have the required Import License, and therefore was not authorized to import PPA from the U.S. or any other country.

In addition, review of Paragon's BNE application indicated that Paragon intended to export PPA to China, not Taiwan. Mr. Fan further alleged he initiated the registration process in 1997; in fact, the DEA registration process was not initiated until June of 1999.

The DEA investigation further revealed that, prior to initiating the DEA registration process, on April 23, 1999, Paragon had placed an order for 500,000 to 1,000,000 PPA capsules with a U.S.-based pharmaceutical manufacturer. When confronted with this order by DEA investigators on June 17, 1999, and notified that he was unauthorized to handle any listed chemicals until registered with DEA, Mr. Fan stated that, while he had completed the order in April of 1999, his secretary had only mailed it that week. Then Mr. Fan stated he placed the order in advance so that when he received his DEA registration, the order would be ready for shipment, because his customer in Taiwan was expecting this order.

Finally, the investigation revealed that Mr. Fan stated to DEA investigators that List I chemicals would comprise approximately ten percent of his business; however, on his application with BNE, Mr. Fan indicated that PPA would be his primary business.

The Administrator finds this lack of candor, taken together with Paragon's and Mr. Fan's demonstrated cavalier disregard of the statutory law and regulations concerning the registration, distribution, exporting, and recordkeeping requirements of List I chemicals, makes questionable Paragon's and Mr. Fan's commitment to the DEA regulatory requirements designed to protect the public from the diversion of controlled substances and listed chemicals. *Aseel Incorporated, Wholesale Division,* 66 FR 35,459 (2001); *Terrence E. Murphy,* 61 FR 2,841 (1996). The Administrator further finds that Paragon's letter received June 7, 2001, in response to the OTSC contained only unsupported allegations, and pursuant to 21 U.S.C. 1309.53(b), the Administrator concludes that this evidence is entitled to little, if any, weight. The Administrator notes that the letter does not substantively dispute the facts underlying the occurrence of the violations of law and regulations set forth above.

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant the application of Paragon Associates. The evidence indicates that the applicant has significantly violated applicable law by distributing and exporting List I

chemicals while not registered with DEA, and by failing to keep and maintain required records concerning regulated transactions.

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 Paragon Associates 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 Wayne Patrick, 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. George Fan, Paragon Associates, 1300 John Reed Court, #13, City of Industry, California 91745.

Karen C. Grant.

[FR Doc. 02–5227 Filed 3–4–02; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Performance Construction, Inc.; Denial of Application

On or about December 6, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Performance Construction, Inc. (Performance), located in Lakeland, Florida, notifying it of an opportunity to show cause as to why the DEA should not deny its application, dated June 30, 2000, for a DEA Certificate of Registration as a manufacturer of List I chemicals and deny any request to modify its application to distribute List I chemicals, pursuant to 21 U.S.C. 823(h), as being inconsistent with the public interest. The order also notified Performance that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received December 11, 2000, as indicated by the signed postal 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 Performance 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 that during a pre-registration inspection of Performance's premises on October 5, 2000, DEA investigators spoke with the president/owner of Performance, who stated that Performance was a general contractor, not engaged in the business of manufacturing, handling, or distribution of listed chemicals, nor did it have any knowledge or experience in this field. He further stated that Performance did not wish to manufacture listed chemicals, but proposed to be registered in order to make a one-time distribution of the List I chemical GBL to an individual also not engaged in the business of handling listed chemicals, purportedly for the purpose of stripping paint from a boat.

The Administrator notes that GBL (gamma-butrolactone) has use as an industrial solvent. GBL is also a known precursor chemical, however, and is readily synthesized into the Schedule I controlled substance GHB. Schedule I controlled substances have no known medical uses, and are highly subject to abuse. 21 U.S.C. 812(b).

DEA investigators contacted numerous marine manufacturers and boat refinishers in south Florida; however none were aware of the use of GBL in the marine industry or for the proposed use in vessel paint stripping. In fact, none of those contacted by DEA had even heard of GBL.

The Administrator further notes that a long-standing DEA policy prohibits the granting of registrations that are essentially ''shelf registrations,'' that is, registrations for which there is no intent to use. The granting of a registration for a one-time distribution of a chemical that is otherwise widely available from DEA registrants throughout the United States would be inconsistent with this long-standing DEA policy.

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 pubic 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 related 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 Administrator 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).

The Administrator finds that factors one and four are relevant to this case. The president/owner of Performance freely admitted his firm is a general contractor, and has no experience in handling listed chemicals. He further states he did not wish to manufacture the chemical, but only to make a one-time distribution pursuant to the request of a customer. There is no evidence concerning what measures, if any, Performance would take to prevent the diversion of the List I chemical. The DEA investigation showed Performance's proposed use of the chemical is not consistent with industry practice. The Administrator finds the public interest is not served by granting a DEA registration for a one-time distribution of a List I chemical to an entity with no experience in handling listed chemicals; having no intent to enter into the business of handling listed chemicals; for an alleged purpose inconsistent with industry practice; and where there is no evidence of controls to prevent the diversion of the chemical to the illicit manufacture of a Schedule I controlled substance.

Furthermore, granting this application would violate the long-standing DEA policy against ''shelf registrations.''

Therefore, for the above-stated reasons, the Administrator concludes that it woudl be inconsistent with the public interest to grant the application of Performance.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him