DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.,* 66 FR 52936 (2001); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988).

Here, it is clear that Dr. Hildebrand's medical license has been revoked and he is not licensed to handle controlled substances in the State of California, where he is registered with DEA. Therefore, he is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AH5626099, issued to John F. Hildebrand, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–344 Filed 1–7–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Brenda J. Lightfoote-Young, M.D.; Revocation of Registration

On April 11, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Brenda J. Lightfoote-Young, M.D. (Dr. Lightfoote-Young) of Eureka and Big Bear Lake, California, notifying her of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration, BL0935518 under 21 U.S.C. 824(a) any deny and pending applications of renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Lightfoote-Young is not currently authorized to practice medicine or handle controlled substances in California, her state of registration and practice. The order also notified Dr. Lightfoote-Young that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Lightfoote-Young at both her registered location at 3144 Broadway, Suite 4–434, Eureka, California, and to P.O. Box 130249, Big Bear Lake, California. On April 29, 2003, according to the return receipt, Dr. Lightfoote-Young received the Order to Show Cause that was mailed to her Big Bear address. DEA has not received a request for hearing or any other reply from Dr. Lightfoote-Young or anyone purporting to represent her in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Lightfoote-Young is deemed to have waived her hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Lightfoote-Young possesses DEA Certificate of Registration BL0935518, which expired on March 31, 2003. The Acting Deputy Administrator further finds that on July 8, 1999, the Medical Board of California (the Board) filed an accusation against Dr. Lightfoote-Young alleging that she violated California Business and Professions Code, section 2239(b), by arriving at work under the influence of alcohol. On March 31, 2000, Dr. Lightfoote-Young and her counsel signed a stipulated settlement and disciplinary order with the Board revoking her medical certificate, but staying that revocation and placing her on five years probation under certain terms and conditions. The disciplinary order provided she was to enroll and participate in the Division of Medical Quality (the Division) Diversion Program until the Division determined that further treatment and rehabilitation were no longer necessary. The order further provided that quitting the program without permission or being expelled for cause would constitute a violation of Dr. Lightfoote-Young's probation.

Alleging, *inter alia,* that during January 2001, Dr. Lightfoote-Young refused to participate any further in the Diversion Program, the Board filed a petition to revoke her probation. On September 26, 2002, a hearing was held before an Administrative Law Judge from the Los Angeles Office of Administrative Hearings. On November 5, 2002, the Board approved the Administrative Law Judge's Proposed Decision and issued its Decision, effective December 5, 2002, revoking Dr. Lightfoote-Young's license to practice medicine in the State of California for an indefinite period.

The investigative file contains no evidence that the Board's Decision has been stayed or that Dr. Lightfoote-Young's medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Lightfoote-Young is not currently authorized to practice medicine in the State of California. As a result, it is reasonable to infer that she is also without authorization to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which she conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.,* 66 FR 52936 (2001); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988).

Here, it is clear that Dr. Lightfoote-Young's medical license has been revoked and she is not licensed to handle controlled substances in the State of California, where she is registered with DEA. Therefore, she is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby order that DEA Certificate of Registration BL0935518, issued to Brenda J. Lightfoote-Young, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michelle M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–340 Filed 1–7–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shop It For Profit; Denial of Application

On November 22, 2002, the Deputy Assistant Administrator, Office of

Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Shop It For Profit (SIFP) proposing to deny its application, executed on December 28, 1999, for DEA Certificate of Registration as a distributor of list I chemicals. The Order to Show Cause alleged in relevant part that granting the application of SIFP 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 SIFP 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 SIFP at its proposed registered location in Smyrna, Tennessee. The return receipt indicated that the show cause order was received on December 7, 2002, by December Pennington (Ms. Pennington), owner and sole proprietor of SIFP. DEA has not received a request for hearing or any other reply from SIFP or anyone purporting to represent the company in this matter.

Therefore, the Acting Deputy Administrator of DEA, finding that (1) 30 days having passed since receipt of the Order to Show Cause, and (2) no request for hearing having been received, concludes that SIFP 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 commonly used to illegally manufacture methamphetamine, a Schedule II controlled substance. At the time that SIFP submitted its application for DEA registration, phenylpropanolamine, also a list I chemical, was 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. As noted in previous DEA final orders, Methamphetamine is an extremely potent central nervous system stimulant, and its abuse is a persistent and growing problem in the United States. *Yemen Wholesale Tobacco and Candy Supply, Inc.* 67 FR 9997 (2002); *Denver Wholesale,* 67 FR 99986 (2002).

The Acting Deputy Administrator's review of the investigative file reveals that on December 28, 1999, SIFP submitted an application for DEA registration as a distributor of the list I chemicals ephedrine, pseudoephedrine and phenylpropanolamine. The application was submitted on behalf of SIFP by Ms. Pennington. There is no information before the Acting Deputy Administrator that SIFP has sought to modify its pending application with respect to any of the listed chemical products it proposes to distribute. Upon receipt of the application, the DEA Tennessee District Office initiated a pre-registration investigation of SIFP on June 15, 2000.

The Acting Deputy Administrator's review of the investigative file reveals that SIFP began its business operation in January 1999. It is located in a residential neighborhood of Smyrna, Tennessee, and is housed at Ms. Pennington's residence. SIFP is a retailer that distributes candies, novelty items such as figurines, NASCAR, collegiate and pro sports items, seasonal items such as gloves, fishing gear and floats, as well as non-prescription medicines such as aspirin and other cold remedies. At the time of DEA's inspection, Ms. Pennington had lived at this location for approximately 12 years with her then-11 year old son.

SIFP employed one other person, who along with Ms. Pennington was responsible for delivery of merchandise to SIFP's customers. Ms. Pennington informed a DEA investigator that approximately 5% of her business would be made up of the distribution of listed chemical products, but further admitted that the distribution of these products is ''unknown territory.''

DEA's investigation revealed that the State of Tennessee does not license chemical handlers (distributors). However, SIFP operates pursuant to a Rutherford County (Tennessee) Business License number (Class 3) of Gift, Novelty and Souvenir Shops. In addition, SIFP has a Tennessee Department of Revenue Certificate of Registration Sales & Use number. The firm also has a Department of the Treasury, Internal Revenue Service Employer Identification number.

During the pre-registration inspection, a DEA Diversion investigator provided Ms. Pennington with DEA publications on the diversion of pseudoephedrine, phenylpropanolamine, combination ephedrine products, methyl sulfone, anhydrous ammonia and iodine. The investigator also provided copies of DEA regulations pertaining to listed chemicals, specifically, title 21 of the Code of Federal Regulations, sections 1300, 1309 and 1310, a copy of threshold provisions for ephedrine, pseudoephedrine and phenylpropanolamine, as well as a guidance document on what constitutes ''suspicious orders'' of list I chemicals.

The DEA diversion investigator further informed Ms. Pennington of the recordkeeping and reporting requirements of a registrant, including the reporting of losses, thefts and suspicious orders of list I chemicals. Ms. Pennington was also informed of the requirement to maintain all records for the regulated products for two years. Ms. Pennington stated her willingness to comply with all recordkeeping and reporting requirements.

With respect to the manner in which her establishment would handle listed chemical products, Ms. Pennington informed the DEA investigator that she would be responsible for the recordkeeping and security of listed chemicals for SIFP and she would require her customers to provide her with a business sales tax license number before any product is distributed to them. DEA's investigation revealed that SIFP has approximately 90 customers. Ms. Pennington stated that SIFP distributes products throughout Middle Tennessee, and the firm does not sell to individuals. Ms. Pennington also provided DEA information regarding her proposed supplier of list I chemicals.

Ms. Pennington further informed the DEA investigator that she makes visits (by truck) to her customers and asks if they need anything. If products are delivered, the delivery is made by a company owned truck. Ms. Pennington stated that her customers are allowed in her delivery truck in order to see what items she has in stock and that she is always present with her customers during these visits.

With respect to storage and transport of list I chemicals, Ms. Pennington stated that these products will be stored on designated shelves in the rear area of her truck and that the back door of the truck has a heavy duty key lock that is kept locked. Ms. Pennington stated that she is the only person with a key to the truck, and the truck is usually parked in her driveway. As an additional measure of security, Ms. Pennington also proposed parking her truck in her backyard, an area surrounded by a wood fence. On a related matter, the DEA diversion investigator contacted by telephone a representative of Security Services of Murfreesboro, Inc., in Murfreesboro, Tennessee, who informed

DEA that SIFP had contracted with the security company for electronic surveillance services.

The DEA diversion investigator informed Ms. Pennington that because of the increase in methamphetamine laboratory seizures in Tennessee and around the country, DEA was reevaluating the registrations of its list I chemical registrants as well as the applications of entities seeking to distribute these products. The investigator further informed Ms. Pennington about the diversion of list I chemical products to the clandestine manufacture of amphetamine and methamphetamine. In response, Ms. Pennington expressed that she was unaware of the problems associated with these products. She added however, that if not for the fact that SIFP's customers had requested list I chemical products, and the possibility that SIFP may lose those same customers to competitors that sell them, it would be her preference not to handle listed chemicals.

On July 6, 2000, the DEA Tennessee District Office received a customer list from Ms. Pennington. The Acting Deputy Administrator's review reveals a customer list comprised primarily of convenience stores, gas stations and food stores. DEA also received from Ms. Pennington a list of products that she anticipated distributing through her company. A review of the list by a DEA investigator revealed several list I products under the brand names of Sudafed and''Max Alert.'' However, several of the products that Ms. Pennington represented as listed I chemical products were in fact not of that category.

The Acting Deputy Administrator's review of the investigative file further reveals that the DEA Tennessee District office reviewed excessive purchase reports filed in that office for the period of March to December 2000. Excessive purchase reports reflect data involving unusually high volume purchases and sale of listed chemical products by various entities, and flag for law enforcement personnel possible unlawful activity with respect to these transactions. DEA's review of the reports revealed that at least five potential customers of SIFP had ordered in an excessive fashion, list I chemical products from a DEA registered distributor located in Crossville, Tennessee. In addition, DEA obtained information that at least one potential customer of SIFP was purchasing listed chemical products from the same company that Ms. Pennington proposed as a supplier for SIFP.

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 one, four and five relevant to SIFP's pending application for registration.

With respect to factor one, maintenance of effective controls against the diversion of listed chemicals, DEA's pre-registration inspection documented adequate security measures taken by SIFP with respect to the company's proposed storage of listed chemicals.

With respect to factor four, the applicant's past experience in the distribution of chemicals, DEA's investigation revealed that the owner of SIFP has no previous experience related to distributing or otherwise handling listed chemicals. 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 weights against the granting of SIFP's pending application. In addition, the Acting Deputy Administrator finds factor four relevant to Ms. Pennington's apparent unfamiliarity with listed chemical products as evidenced by the list of purported list I chemical products that was supplied to DEA on behalf of SIFP, which contained several products that were not of that category.

With respect to factor five, other factors relevant to and consistent with the public safety, the Acting Deputy Administrator finds this factor relevant to SIFP's proposal to distribute listed chemical products primarily to convenience stores and combination food mart/gas stations. 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 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.*

The Acting Deputy Administrator finds factor five relevant to the results of DEA's verification of SIFP's proposed customers. Among the firm's potential customers were establishments that were part of an excessive purchase report involving listed chemicals obtained by DEA, and one potential customer that was purchasing listed chemical products from another supplier.

The Acting Administrator also finds factor five relevant to SIFP's request to distribute phenylpropanolamine, and the apparent lack of safety associated with the use 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 SIFP 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 Shop It For Profit be, and it hereby is, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–345 Filed 1–7–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Monica Lynn Smedley, D.P.M.; Revocation of Registration

On May 5, 2003, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Monica Lynn Smedley, D.P.M. (Dr. Smedley) of Nashville, Tennessee and North Braddock, Pennsylvania, notifying her of an opportunity to show cause as to why DEA should not revoke her DEA Certificate of Registration, BS4332045 under 21 U.S.C. 824(a) and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Smedley is not currently authorized to practice podiatry or handle controlled substances in Tennessee, her state of registration and practice and that her continued registration would not be in the public interest. The order also notified Dr. Smedley that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Smedley at her registered location at 319 Westfield Drive, Nashville, Tennessee. An Order was also sent to 551 Lobinger Avenue, North Braddock, Pennsylvania. According to the return receipts, the Order sent to the registered location was undeliverable. However, on or around May 30, 2003, the Order sent to her Pennsylvania address was accepted on Dr. Smedley's behalf.

DEA has not received a request for hearing or any other reply from Dr. Smedley or anyone purporting to represent her in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Smedley is deemed to have waived her hearing right. *See Samuel S. Jackson, D.D.S.,* 67 FR 65145 (2002); *David W. Linder,* 67 FR 12579 (2002). After considering material from the investigative file, the Acting Deputy Administrator now enters her final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Smedley possesses DEA Certificate of Registration BS4332045, which expires on February 29, 2004. The Acting Deputy Administrator further finds that the State of Tennessee Department of Health filed charges against Dr. Smedley with the Tennessee Board of Registration of Podiatry (the Board) alleging, *inter alia,* that between February 1, 2002 and March 6, 2002, she prescribed controlled substances, primarily Codeine and Butalbital, after her podiatry license had expired for failure to renew. It was further charged that from January 31, 2002 until April 9, 2002, on an almost daily basis Dr. Smedley wrote prescriptions for and picked up Tylenol #4, a controlled substance, from various pharmacies in the Nashville area. These prescriptions were written in her mother's name. During the same period Dr. Smedley wrote prescriptions for Tylenol #4 to herself and attempted to pick up the prescribed controlled substances. The prescriptions were not dispensed, prescribed or otherwise distributed in the course of Dr. Smedley's professional practice.

On November 14, 2002, the Board issued an Agreed Order which found the above allegations true, suspended Dr. Smedley's podiatry license for a period of six months and placed her on one year's probation, which would commence upon expiration of the six month suspension. As a condition for reinstatement of her license, Dr. Smedley was required by the Agreed Order to undergo a substance abuse evaluation and demonstrate to the Board that she was in compliance with any of the evaluation's recommendations.

The investigative file contains no evidence that the Board's Agreed Order has been stayed or that Dr. Smedley's podiatry license has been reinstated. Therefore, the Acting Deputy Administrator finds that Dr. Smedley is not currently authorized to practice podiatry in the State of Tennessee. As a result, it is reasonable to infer that she is also without authorization to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which she conducts business. *See* 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Muttaiya Darmarajeh, M.D.,* 66 FR 52936 (2001); *Dominick A. Ricci, M.D.,* 58 FR 51104 (1993); *Bobby Watts, M.D.,* 53 FR 11919 (1988).

Here, it is clear that Dr. Smedley's podiatry license was suspended, that it has not been reinstated and she is not licensed to handle controlled substances in the State of Tennessee, where she is registered with DEA. Therefore, she is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in her by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BS4332045, issued to Monica Lynn Smedley, D.P.M., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective February 9, 2004.

Dated: December 18, 2003.

Michele M. Leonhart,

Acting Deputy Administrator.

[FR Doc. 04–342 Filed 1–7–04; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0048(2004)]

Standard on Occupational Noise Exposure (Noise) (29 CFR 1910.95); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the Information collection requirements contained in the Occupational Noise Exposure standard. (29 CFR 1910.95).

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by March 8, 2004.

Facsimile and electronic transmission: Your comments must be received by March 8, 2004.

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the