Outlet, 64 FR 14269 (1999). See also Henry J. Schwartz, Jr., M.D., 54 FR 16422 (1989).

The Acting Administrator finds factors two, four and five relevant to J & P's pending application.

With respect to factor two, the applicant's compliance with applicable law, the Acting Administrator finds that between December 2000 and March 2002, J&P violated applicable law by distributing, without a DEA registration, bottle quantities of ephedrine as well as pseudoephedrine products to three retail establishments, in violation of 21 U.S.C. 843(a)(9). The Acting Administrator also finds factor two relevant to J&P's March 2001 purchase of ephedrine products from Galaxy Wholesale while not registered with DEA, in violation of 21 U.S.C. 822(a) and 21 CFR 1309.21(a) and 1310.09.

With respect to factor four, the applicant's past experience in the distribution of chemicals, the Acting Administrator finds that notwithstanding the above referenced purchase and sale of listed chemical products by the owners of J&P, the applicant has not demonstrated that it possesses any meaningful experience in the distribution of these products. The Acting Administrator finds J&P's lack of experience most telling in the fact that its owners continued the purchase and sale of listed chemical products even as its application for registration was being reviewed by DEA. This factor weighs against the granting of Respondent's pending application. See, CHM Wholesale Co., 67 FR 9985 (2002); Hologram Wonders, Inc., 67 FR 10231 (2002); Southern Illinois Wholesale, Inc., 67 FR 12583 (2002).

J&P's continued sale and purchase of listed chemical products during the pendency of its registration application is also relevant to factor five, other factors relevant to and consistent with the public safety. The Acting Administrator also finds factor five relevant to the failure on the part of J&P's owners to inform DEA investigators of any previous experience handling listed chemicals, when the firm in fact purchased ephedrine products from Galaxy Wholesale.

The Acting Administrator also finds that J&P provided to DEA investigators a list of customers that are comprised solely of convenience stores and gas stations. While there are no specific prohibitions regarding the sale of listed chemicals products to these entities, DEA has nevertheless found on previous occasions 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., 67 FR 76195 (2002).

Factor five is further relevant to J&P's proposed use of listed chemical supplier that previously was the subject of DEA show cause proceedings. The show cause proceedings were based on allegations that the supplier violated laws and regulations related to its DEA registration, and engaged in distribution practices that led to the diversion of listed chemicals.

In light of the above, the Acting Administrator concludes that it would be inconsistent with the public interest to grant the application of J&P Distributor.

Accordingly, the Acting 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 pending application for DEA Certificate of Registration, previously submitted by J&P Distributor be, and it hereby is, denied. This order is effective August 25, 2003.

Dated: July 3, 2003.

William B. Simpkins,

Acting Administrator.

[FR Doc. 03–18869 Filed 7–23–03; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Sustances; Notice of Registration

By Notice dated March 11, 2003, and published in the **Federal Register** on April 2, 2003, (68 FR 16091), Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application by renewal to the Drug Enfocement Adminstration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Ecgonine (9180)	II

The above cited Notice contained an error in that the drug code for Cocaine was listed as 9040 rather than 9041.

The firm plans to manufacture the listed controlled substances for the manufacture of a non-controlled substance flavor extract.

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 Penick Corporation to manufacture the listed contolled substances is consistent with the public interest at this time. DEA has investigated Penick Corporation 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: July 18, 2003.

Laura M. Nagel,

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

[FR Doc. 03–18867 Filed 7–23–03; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 25, 2001, the University of Massachusetts, Lyle E. Craker, Professor, Department of Plant and Soil Science, Stockbridge Hall, Box 37245, Amherst, Massachusetts 01003, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of Marijuana (7360) and Tetrahydrocannabinols (7370), basic classes of Schedule I controlled substances.

The University of Massachusetts-Amherst plans to bulk manufacture (cultivate) Marijuana and Tetrahydrocannabinols for distribution to approved researchers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to this notice of application.