Act, 5 MRSA § 4553 *et seq.*, as implemented by the Maine Accessibility Regulations, meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act (ADA).

DATE: January 5, 1998.

ADDRESSES: Inquiries may be addressed to: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738. Telephone number (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

SUPPLEMENTARY INFORMATION:

Background

The ADA authorizes the Department of Justice, upon application by a State or local government, to certify that a State or local law that establishes accessibility requirements meets or exceeds the minimum requirements of title III of the ADA for new construction and alterations. 42 U.S.C. 12188(b)(1)(A)(ii); 28 CFR 36.601 *et seq.* Certification constitutes rebuttable evidence, in any ADA enforcement action, that a building constructed or altered in accordance with the certified code complies with the new construction and alterations requirements of title III of the ADA.

By letter dated July 21, 1995, the Maine Human Rights Commission requested that the Department of Justice (Department) certify that the Maine Human Rights Act, 5 MRSA section 4553 *et seq.*, as implemented by the Maine Accessibility Regulations (together, the Maine law), meets or exceeds the new construction and alterations requirements of title III of the ADA.

The Department analyzed the Maine law, and made a preliminary determination that it meets or exceeds the new construction and alterations requirements of title III of the ADA. By letter, dated September 23, 1997, the Department notified the Maine Human Rights Commission of its preliminary determination of equivalency.

On October 2, 1997, the Department published notices in the **Federal Register** announcing its preliminary determination of equivalency and requesting public comments thereon. The period for submission of written comments ended on December 1, 1997. In addition, the Department held public hearings in Augusta, Maine on October 17, 1997, and in Washington, DC on December 2, 1997.

Three individuals submitted comments. Commenters were disability-rights advocates and an architect. The Department has analyzed all of the submitted comments and has consulted with the U.S. Architectural and Transportation Barriers Compliance Board.

Two of the comments supported certification of the Maine law. One comment, while not opposing certification of the Maine law, inquired whether the Maine law's coverage of churches (if the building or facility is open to the public for any reason) is different from the ADA. Because coverage of churches is neither required nor prohibited by the ADA, such coverage does not preclude certification.

Based on these comments, the Department has determined that the Maine law is equivalent to the new construction and alterations requirements of title III of the ADA. Therefore, the Department has informed the submitting official of its decision to certify the Maine law.

Effect of Certification

The certification determination is limited to the version of the Maine law that has been submitted to the Department. The certification will not apply to amendments or interpretations that have not been submitted and reviewed by the Department.

Certification will not apply to buildings constructed by or for State or local government entities, which are subject to title II of the ADA. Nor does certification apply to accessibility requirements that are addressed by the Maine law that are not addressed by the ADA Standards for Accessible Design.

Finally, certification does not apply to variances or waivers granted under the Maine law. Therefore, if a builder receives a variance, waiver, modification, or other exemption from the requirements of the Maine law for any element of construction or alterations, the certification determination will not constitute evidence of ADA compliance with respect to that element.

Dated: December 12, 1997.

Isabelle Katz Pinzler,

Acting Assistant Attorney General for Civil Rights.

[FR Doc. 98–149 Filed 1–2–98; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–27]

Hemp Products Research Company; Denial of Applications

On June 17, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued two Orders to Show Cause to Hemp Products Research Company (Respondent), of Bellevue, Nebraska, notifying it of an opportunity to show cause as to why DEA should not deny its applications for DEA Certificates of Registration as a manufacturer of marijuana under 21 U.S.C. 823(a), and as a researcher in the cultivation of marijuana under 21 U.S.C. 823(f), for reason that its registration would be inconsistent with the public interest. Respondent requested a hearing on the issues raised by the Orders to Show Cause and the matter was docketed before Administrative Law Judge Gail A. Randall.

On August 26, 1997, the Government filed a Motion for Summary Disposition seeking a recommendation from the Administrative Law Judge that the applications be denied without convening a hearing. Thereafter, on September 17, 1997, Respondent submitted a prehearing statement which included its response to the Government's motion. On October 8, 1997, Judge Randall issued her Opinion and Recommended Ruling, concluding that summary disposition is appropriate in this matter, and therefore granting the Government's motion and recommending that Respondent's applications for registration be denied. Neither party filed exceptions to her opinion, and on November 21, 1997, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge. his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent has two pending applications for registration with DEA. Respondent submitted an application dated March 14, 1995, for registration

with DEA as a researcher in Schedule I, listing the Administrative Drug Code Number for marijuana. In addition, Respondent listed on its application an address in Bellevue, Nebraska. In Respondent's letter transmitting its prehearing statement, the President of Respondent indicated that this was his home address, but that he was moving to a new home in O'Neill, Nebraska. Respondent admitted in its prehearing statement that the address listed on its application is not the location where it intends to conduct research in the cultivation of marijuana. Further, in its research protocol, required pursuant to 21 U.S.C. 823(f) and 21 CFR 1301.18, under the heading ''Location Where The Research Will Be Conducted,'' Respondent states that ''[t]his study is based on farms '' in 20 states, and that ''[b]iochemical and textile analysis will be performed by [Respondent] in contractual industrial laboratories.'' However, Respondent fails to specifically identify the location(s) where it intends to conduct its research.

In its second application, dated May 18, 1995, Respondent seeks registration as a Schedule I manufacturer, also listing on this application the Administrative Code Number for marijuana. Respondent indicated on its application that it wants to manufacture marijuana for industrial purposes. Like with the researcher application, Respondent admitted that the address listed on the manufacturer application is not the location where Respondent intends to manufacture marijuana. Instead, Respondent has stated that it ''is seeking approval of approximately 360,000 acres for industrial hemp production in 18 states at this time.'' Respondent ''intends to cultivate itself, and to subcontract out, the cultivation, harvest and processing of low THC industrial varieties of Cannabis hemp stalk, seed, and waste materials * * *.'' Respondent intends, at harvest, to separate the leaf, flower, and other waste from the stalk and seed of the Cannabis sativa L. plant, and to use the hemp stalk for textile analysis. Respondent further intends to then use the hemp seeds to grow new Cannabis sativa L. plants.

Correspondence between DEA and Respondent prior to the issuance of the Orders to Show Cause indicate that Respondent was advised that a separate registration is required for each location where marijuana will be manufactured and that there are certain security requirements for manufacturing locations which must be inspected prior to the issuance of any registration.

The Government, in its Motion for Summary Disposition, argues that summary disposition is appropriate in this proceeding since there is no dispute that Respondent has failed to comply with the application requirements for registration with DEA as a manufacturer and as a researcher of a controlled substance. First, the Government argues that Respondent has failed to submit separate applications for each location where it intends to manufacturer marijuana as required by 21 U.S.C. 822 and 21 CFR 1301.12. In its response, Respondent contends that feral industrial hemp is a ''non-drug'' with no potential for abuse and therefore it is unreasonable to require a separate registration for each location where it intends to manufacture. Next, the Government argues that Respondent has failed to disclose the location(s) where it intends to conduct research on marijuana and to submit separate applications for those locations as required by 21 U.S.C. 822 and 21 CFR 1301.12 and 1301.18(a)(2)(v). Respondent argues that it has not yet acquired a research facility, and that it would be ''economically foolish'' to obtain laboratory space without first receiving a DEA registration. Finally, the Government asserts that Respondent has failed, or refused, to allow DEA to conduct on-site inspections of any location where it intends to manufacture or conduct research, thereby precluding DEA from determining whether Respondent is in compliance with security requirements. Respondent contends that it has provided DEA with a list of a number of manufacturing locations, but that DEA has never asked to conduct on-site inspections at any of these locations.

The first question is whether Respondent intends to manufacture or conduct research on marijuana. Respondent states that it does not want ''anything whatsoever to do with 'marijuana' or 'marihuana'. As stated in applications and communications, interest is based solely on the use of industrial hemp for the production of bioplastics, biofuels, cloth and paper.'' In addition, Respondent asserts that it is intending to deal with a ''non-drug'' since it has a very low concentration of delta-9-tetrahydrocannabinol (THC). As Judge Randall noted, marijuana is defined in 21 U.S.C. 802(16) as:

> [A]ll parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil and cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Further, 21 U.S.C. 802(15) defines manufacture as ''the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin * * *.''

As noted previously, Respondent intends to process a substance that originates from the Cannabis sativa L. plant, by separating at harvest, the stalk and seed materials from the leaf, flower and other waste material, and then using the seeds to grow new Cannabis sativa L. plants. The Acting Deputy Administrator agrees with Judge Randall that ''[s]ince the definition of marihuana specifically includes all parts of the plant, except the mature stalks, the Respondent proposes to 'process' the Cannabis sativa L. plant to reach the hemp component of that plant.'' In addition, Respondent's use of the seeds to grow new Cannabis sativa L. plants also falls within the statutory definitions of the manufacture of marijuana. Therefore, the Acting Deputy Administrator concludes that Respondent is proposing to engage in the manufacture and research of marijuana. As to Respondent's assertion that the substance that it intends to be involved with is a ''non-drug'' due to its low concentration of THC, the Acting Deputy Administrator concludes that the statutory definition of marijuana does not address the degree of THC concentration. Therefore, regardless of the level of THC concentration of the plants, Respondent's proposed activities fall within the statutory definitions of the manufacture of marijuana.

Pursuant to 21 U.S.C. 822(a), ''[e]very person who manufactures or distributes any controlled substance * * * or who proposes to engage in the manufacture or distribution of any controlled substance * * * shall obtain annually a registration issued by the Attorney General * * *.''

Since Respondent intends to manufacture marijuana, a Schedule I controlled substance, it is required to obtain a DEA registration. Further, 21 U.S.C. 822(e) states that ''[a] separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances. . . .'' Respondent has submitted only one application for registration to manufacture marijuana, and Respondent has admitted that it does not intend to manufacture marijuana at the address

listed on the application. Instead, Respondent has indicated that it intends to manufacture marijuana on farms in a number of different states, however it has not submitted applications for registration for these locations. Therefore, since Respondent's manufacturer application fails to identify the principal place(s) of business where it intends to manufacture marijuana, it does not comply with 21 U.S.C. 822.

Regarding Respondent's application to conduct research, pursuant to 21 U.S.C. 823(f), DEA is authorized to register ''practitioners'' to conduct research with controlled substances. ''Practitioner'' is defined in 21 U.S.C. 802(21) as:

> [A] physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

Therefore, state authorization to conduct research is a prerequisite to DEA registration. See also 21 U.S.C. 823(f). Like with its manufacturer application, Respondent's researcher application lists an address where Respondent has conceded that it has no intention of conducting research. Instead, in its research protocol, Respondent merely lists 20 states from which it intends to obtain hemp, and acknowledges that it has not yet obtained laboratory space. Because Respondent has not identified the specific location(s) where it intends to conduct its research on marijuana, DEA cannot determine whether Respondent is authorized to do so in the jurisdiction(s) where the proposed research will take place. Therefore, the Acting Deputy Administrator concurs with Judge Randall's conclusion that ''DEA lacks the authority under 21 U.S.C. 823(f) to register the Respondent as a researcher.''

It is well settled that where there is no material question of fact involved, or when the facts are agreed upon, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. *Gilbert Ross, M.D.*, 61 FR 8664 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993); *Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984).

In this case, there does appear to be some dispute as to whether or not Respondent refused to allow DEA to conduct on-site inspections of the locations where it is proposing to manufacture or conduct research on marijuana. However, the Acting Deputy Administrator finds it unnecessary to reach this issue, since as Judge Randall found, it is undisputed that ''(1) the Respondent has failed to submit separate manufacturing [applications] for each proposed manufacturing site; (2) the address on the pending manufacturing application is not a proposed manufacturing site; and (3) the Respondent has failed to identify the location where it intends to do research with a controlled substance.'' Therefore, Judge Randall concluded that Respondent ''has not complied with the statutory and regulatory requirements pertaining to the content of its applications[,] * * * that there are no relevant factual matters in dispute concerning the information lacking in the Respondent's applications[,] * * * [and] that the DEA lacks the authority to grant the Respondent's currently pending, incomplete applications for DEA Certificates of Registration.''

As a result, Judge Randall granted the Government's Motion for Summary Disposition and recommended that Respondent's applications for registration be denied. The Acting Deputy Administrator concurs with Judge Randall's conclusions. DEA is precluded by statute to issue Respondent a manufacturer registration at a location where Respondent does not intend to manufacture a controlled substance which would authorize Respondent to manufacture marijuana at different locations in a number of states. Further, since Respondent has failed to specifically identify the state(s) where it intends to conduct its research on marijuana, DEA cannot determine whether Respondent is properly authorized by the state(s) to conduct such research, and therefore, DEA is precluded by statute from issuing Respondent a researcher registration.

Consequently, the Acting Deputy Administrator concludes that Respondent's applications for registration cannot be granted. The Acting Deputy Administrator agrees with Judge Randall that since ''the current applications [are] so defective that the DEA lack[s] authority to grant them in their current state . . . it [is] unnecessary to make any further findings or conclusions concerning any of the other issues raised by the parties about the propriety of granting or denying the Respondent's applications.''

In her November 21, 1997 letter transmitting the record to the Acting Deputy Administrator, Judge Randall noted that Respondent had filed with her office several exhibits including ''hemp paper, fiber, hurds and stalks (whole and chipped).'' Judge Randall asked to be advised whether the Acting Deputy Administrator ''would like for these items to be destroyed or retrieved for [his] viewing.'' In light of the conclusions made in this matter, the Acting Deputy Administrator finds it unnecessary to view these exhibits.

Accordingly, the Acting Deputy 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 the applications dated March 14, 1995, and May 18, 1995, submitted by Hemp Products Research Company, for DEA Certificates of Registration as a researcher and as a manufacturer, be, and they hereby are, denied. This order is effective February 4, 1998.

Dated: December 22, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 98–024 Filed 1–2–98; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 97–170]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Automated Analysis Corporation, 2805 South Industrial, Suite 100, Ann Arbor, Michigan 48104–6767, has applied for an exclusive copyright license for computer software entitled ''Structural Acoustics Optimization (SAOpt) Software.'' NASA received assignment of the copyright on September 18, 1997, from Lockheed Martin Aeronautical Systems Company. Written objections to the prospective grant of a license should be sent to Ms. Robin W. Edwards, Patent Attorney, NASA Langley Research Center.

DATES: Responses to this notice must be received by March 6, 1998.

FOR FURTHER INFORMATION CONTACT:

Ms. Robin W. Edwards, Patent Attorney, NASA Langley Research Center, Mail Code 212, Hampton, VA 23681–0001, telephone (757) 864–3230.