

#### IV. Civil Penalties

A. The USCG reports violations of OCSLA statutes or regulations which may result in civil penalty action to MMS by using the Compliance Review Form, MMS-129. The USCG will investigate and document OCSLA based violation cases according to the procedures in 33 CFR 140.40 with the following clarification:

1. The cognizant Officer in Charge, Marine Inspection (OCMI) provides the violator written notice of the violation and establishes a reasonable time for the violator to correct the violation. However, a violation that constitutes a threat of serious, irreparable, or immediate harm does not need a time for correction before the OCMI proceeds with a civil penalty recommendation. For violations which do not constitute a threat of serious, irreparable, or immediate harm, the OCMI may consult the MMS RD to establish reasonable corrective times, particularly on matters in which MMS has expertise or knowledge of industry practice.

2. If the appropriate time to file an appeal has past, and the violator has not filed an appeal with the appropriate USCG official, pursuant to 43 USC 1248(a), the OCMI provides the MMS Regional Civil Penalty Coordinator with the following information:

i. The case file, which consists of a summary of the investigation and a USCG determination of the regulations violated.

ii. A description of the seriousness of violation and any incidents actually associated with the violation.

iii. If requested, additional information concerning the merits of a civil penalty action. All physical evidence remains with the USCG, but available to MMS upon request.

3. If the violator files an appeal, the USCG will forward the case to MMS after the USCG Hearing Officer issues a final decision on the appeal.

4. Upon receipt of the violation report, the MMS Regional Civil Penalty Coordinator will appoint a Reviewing Officer (RO) who will process the report in accordance with the MMS OCS Criminal/Civil Penalties Program Guidebook.

5. Notification of the MMS RO's decision regarding the civil penalty assessment, collection, compromise, or dismissal shall be provided to the OCMI originating the violation report.

#### V. Pollution responsibilities

##### A. Certificates of Financial Responsibility (COFR)

1. The MMS issues Certificates of Financial Responsibility (COFR) for all facilities seaward of the coast line. The MMS COFR ensures that lessees possess adequate oil spill financial responsibility for the clean up and damages from oil discharges resulting from oil exploration and production facilities and the associated pipelines.

2. The USCG issues COFR for vessels and floating OCS facilities which store oil. This COFR is in addition to the MMS COFR and addresses the operators financial responsibility for the clean up and damages from oil discharges resulting from non-well

related sources and produced oil store on board the floating OCS facility.

##### B. Oil Spill Preparedness and Response Planning

1. The MMS, for all facilities seaward of the coast line, requires that responsible parties maintain approved Oil Spill Response Plan (OSRP) consistent with the area contingency plan (ACP); ensures that response personnel receive training; and that response equipment is inspected. The MMS may require unannounced oil spill response drills. The MMS RS will notify the Federal On Scene Coordinator (FOSC) of drills to coordinate participation, and avoid conflict or duplication.

2. The USCG Captain of the Port serves as the pre-designated FOSC in accordance with the national Contingency Plan. The cognizant FOSC will also jointly approve OSRPs for floating OCS facilities which store oil. Participation in MMS drills will be at the discretion of the FOSC. The FOSC will advise the MMS RS of spill response drills and activities occurring offshore.

##### C. Spill Response

1. All spills are required to be reported to the NRC. The NRC provides notification to the appropriate agencies and state offices. Additionally, offshore facility owners or operators are required to report spills over one barrel to the MMS RS.

2. The FOSC will direct and monitor federal, state, and private actions, consult with affected trustees, and determine removal completion. The MMS RS will direct measures to abate sources of pollution from an offshore facility.

#### VI. Exchanging Services and Personnel

To the extent its own operations and resources permit, each Agency will provide the other Agency with assistance, technical advice, and support, including transportation, if requested. Exchange of services and personnel is non-reimbursable (except for pollution removal funding authorizations for incident specific fund access). The assistance may extend to areas beyond the OCS where one Agency's expertise will benefit the other Agency in applying and enforcing its safety regulations.

#### VII. Other Cooperative Functions

A. Both agencies will exchange data and study results, participate in research and development projects and exchange early drafts of rulemaking notices to avoid duplicative or conflicting requirements.

B. Both Agencies will review current standards, regulations, and directives and will propose revisions to them necessary in keeping with the provision of this MOU.

C. Both Agencies will review reporting and data collection requirements imposed on operators of OCS facilities and, where feasible, eliminate or minimize duplicate reporting and data collection requirements.

#### VIII. Implementing this MOU

A. Each Agency will review its internal procedures, and where appropriate, will revise them to accommodate the provisions

of this MOU. Each Agency will also designate in writing one senior official who will be responsible for coordinating and implementing the provisions of this MOU.

B. Each agency will designate regional officials to be responsible for coordinating and implementing the provisions of this MOU in their respective regions.

C. The USCG—MMS MOU concerning regulation of activities and facilities in the OSC, dated August 29, 1990, is canceled on the effective date of this agreement.

D. The MOU between the Department of the Interior and the Department of Transportation regarding responsibilities under the National Oil and Hazardous Substances Pollution Contingency Plan, dated August 16, 1971, is canceled on the effective date of this agreement.

E. If new technology (or new uses of current technology) require a change to this MOU, the MMS regional office and appropriate USCG district will work together to solve the situation. The MMS regional office and the USCG district will notify their respective headquarters office of the change. If the MMS regional office and the USCG district office can't solve the situation, it will be elevated to MMS and USCG headquarters. The new policy will become part of a revised MOU the next time the MOU is revised.

#### IX. Savings Provision

Nothing in this MOU alters, amends, or affects in any way the statutory authority of MMS or the USCG.

#### X. Effective Date

This MOS is effective upon signature. Both parties may amend it by mutual agreement and either agency may terminate it with a 30-day written notice.

Signed at Washington, D.C. this

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Commandant, U.S. Coast Guard, Department of Transportation.

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Director, Minerals Management Service, Department of the Interior.

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#### DEPARTMENT OF JUSTICE

##### Office of the Assistant Attorney General for Civil Rights; Certification of the State of Maine Accessibility Regulations Under the Americans with Disabilities Act

AGENCY: Department of Justice.

ACTION: Notice of certification.

SUMMARY: The Department of Justice has certified that the Maine Human Rights

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.*

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**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