

I. Findings of Fact

On July 30, 2014, Respondent filed an application with DEA to bulk manufacture Schedule I controlled substances. Government Exhibit (GX) 1. According to Respondent, he is seeking to obtain DEA registration as a bulk manufacturer of marihuana “so that he may cultivate, harvest, and package the particular strains of marihuana required for his research and product development purposes.” Resp Posthearing, at 4; Tr. 30. Respondent hopes to ultimately produce products that will treat Alzheimer’s and other degenerative diseases. Tr. 30, 49.

Respondent is a pharmacist and has possessed, and operated under, pharmacy controlled substance registrations, as well as having held multiple state pharmacy licenses for over 50 years. Tr. 58–61. It is undisputed, however, that Respondent does not currently hold any type of DEA controlled substance registration, and at the onset of the hearing, a certification of Respondent’s lack of DEA registration as a schedule 1 researcher was admitted into the record without objection. Tr. 18; GX 1, at 2.

II. Discussion

The Controlled Substances Act (CSA) states that the Agency shall register an applicant to manufacture controlled substances in schedule I or II if such registration is determined to be “consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.” 21 U.S.C. 823(a). The CSA provides six factors DEA must consider in determining the public interest. *Id.* 21 CFR 1318.05, which implements the requirements of § 823(a) for marihuana growers and manufacturers, further provides that the Agency shall place “particular emphasis” on certain enumerated criteria in determining the public interest.

In situations, such as here, where “an applicant seeks registration to grow cannabis for its own research or product development” one of the criteria of “particular emphasis” is that “the applicant *must possess* registration as a schedule I researcher with respect to marihuana under § 1301.31 of this chapter.” 21 CFR 1318.05(b)(3)(ii) (emphasis added). It is undisputed that Respondent does not possess a DEA schedule I researcher registration under § 1301.31. Tr. 19; Respondent’s Exceptions, at 3. Accordingly, under the plain language of the regulation,

¹ other statutes; however, the relevant provision here, 21 U.S.C. 823(a), remained the same.

Respondent does not meet the criteria to receive the manufacturer registration for which he has applied, and the Agency finds that granting his application for a registration would not be consistent with the public interest under § 823(a).²

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(a), I hereby deny DEA registration application No. W14063382E submitted by Gary Gray d/b/a/Complex. This Order is effective June 26, 2023.

Signing Authority

This document of the Drug Enforcement Administration was signed on May 16, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

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² Respondent filed Exceptions to the Chief ALJ’s Recommended Decision arguing that he is eligible for a manufacturer registration because he applied for the requisite researcher registration in June 2022 and that application is pending with DEA. Respondent’s Exceptions, at 4. Respondent’s argument is unpersuasive as the regulations clearly state that an applicant must *currently* possess a researcher registration, not just have submitted an application for one. (Respondent’s application for a researcher registration is also not in the record under consideration for this matter as, based on a declaration from Respondent’s counsel, it was submitted after the Chief ALJ had transferred the certified record for this matter to the DEA Administrator). Respondent requests, in the alternative, that any action on the instant application be stayed pending action on his application for registration as a schedule 1 researcher. *Id.* at 6–7. Respondent’s request is denied. Respondent may submit a new application for a manufacturer registration and that application will be evaluated on its merits.

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for State or Federal Workers’ Compensation Information

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers’ Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before June 26, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The OWCP Form CM–981 is completed by a school official to verify whether a Black Lung beneficiary’s dependent, aged 18 to 23, qualifies as a full-time student. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 31, 2022 (88 FR 6314).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is

generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL—OWCP.

Title of Collection: Extension.

OMB Control Number: 1240–0032.

Affected Public: Private Sector—State, Local, and Tribal Governments.

Total Estimated Number of

Respondents: 4,155.

Total Estimated Number of

Responses: 4,155.

Total Estimated Annual Time Burden:

1,039 hours.

Total Estimated Annual Other Costs

Burden: \$2,356.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

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OFFICE OF MANAGEMENT AND BUDGET

Request for Nominations of Experts to Peer-Review Draft Guidance on Valuing Ecosystem Services in Federal Benefit-Cost Analyses

AGENCY: Office of Management and Budget.

ACTION: Notice; request for nominations.

SUMMARY: The Office of Management and Budget (OMB) will propose draft guidance called *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*. This notice requests public nominations of experts to participate in an independent scientific peer review of this forthcoming proposed Guidance.

DATES: The 21-day public comment period to provide nominations begins May 25, 2023, and ends June 15, 2023. Nominations must be received on or before June 15, 2023.

ADDRESSES: Submit your nominations by emailing them to *MBX.OMB.OIRA.ESGuidancePeerReview@omb.eop.gov*

(subject line: Peer Review Nomination for Ecosystem Services Guidance) no later than June 15, 2023. To receive full consideration, nominations should include all of the information requested below. Please be advised that public comments, including communications on these nominations, are subject to release under the Freedom of Information Act.

Privacy Act Statement: Submission of nominations is voluntary. Solicitation of this information is authorized by 31 U.S.C. 1111. The information furnished will be used to select independent peer reviewers to evaluate forthcoming proposed guidance entitled *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*. While the information solicited by this notice is intended to be used for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to contractors, as necessary to perform their duties for the Federal government; to a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains; or to other agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement. A complete list of the routine uses can be found in the system of records notice associated with this collection of information, OMB Public Input System of Records, OMB/INPUT/01.

FOR FURTHER INFORMATION CONTACT:

Office of Information and Regulatory Affairs, Office of Management and Budget, *MBX.OMB.OIRA.ESGuidancePeerReview@omb.eop.gov* (subject line: Peer Review Nomination for Ecosystem Services Guidance).

SUPPLEMENTARY INFORMATION:

I. Background

Two OMB circulars provide guidance to Federal agencies on benefit-cost analyses. Circular A–4: *Regulatory Analysis*¹ discusses analyses of regulations' impacts, as required under section 6(a)(3) of Executive Order (E.O.) 12866 (Regulatory Planning and Review),² the Regulatory Right-to-Know Act,³ and a variety of related authorities. Circular A–94: *Guidelines and Discount Rates for Benefit-Cost Analysis of*

¹ OMB, Circular A–4, *Regulatory Analysis* (Sept. 17, 2003), available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf.

² Exec. Order No. 12866, 58 FR 51735 (Oct. 4, 1993).

³ Public Law 106–554, 624, 114 Stat. 2763A–161 (codified at 31 U.S.C. 1105 note).

*Federal Programs*⁴ discusses analyses of Federal programs or policies, decisions whether to lease or purchase, and asset valuation and sale. In April 2023, OMB proposed draft updates to both circulars.⁵ These draft updates both note the importance of analyses accounting for effects on environmental and ecosystem services, as feasible and appropriate, and reference forthcoming OMB guidance on ecosystem services for more discussion on how to conduct such analyses.⁶ E.O. 14072 section 4(b) also calls for guidance related to the valuation of ecosystem and environmental services and natural assets in Federal regulatory decision-making.⁷

OMB is currently drafting this guidance, entitled *Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis*. OMB will solicit public comments on the proposed guidance. In addition, the proposed guidance will be peer reviewed. The independent, external scientific peer review will be managed by an OMB contractor. This notice requests public nominations of experts to participate in the independent scientific peer review of the forthcoming guidance on valuing ecosystem services in benefit-cost analyses consistent with Circulars A–4 and A–94.

⁴ OMB, Circular A–94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* (Oct. 29, 1992), available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A94/a094.pdf.

⁵ See OMB, Draft for Public Review: Circular A–4, *Regulatory Analysis* (Apr. 6, 2023), available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4.pdf> (hereinafter Draft Circular A–4 Update); OMB, Draft for Public Review: Circular A–94, *Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs* (Apr. 6, 2023), available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/CircularA94.pdf> (hereinafter Draft Circular A–94 Update).

⁶ See Draft Circular A–4 Update 51–52 (“Many regulations will influence environmental or ecosystem services that directly impact the welfare of relevant populations. . . . Where you identify relevant ecosystem services, you should seek to monetize their impacts when feasible, quantify impacts when monetization is not feasible, and describe qualitatively impacts that are not monetized or quantified. See . . . forthcoming OMB guidance on ecosystem services for additional information and guidance.”); Draft Circular A–94 Update 8 (“Projects may directly affect or alter access to the natural environment and the benefits it provides. Analyses should account for relevant effects on ecosystem and environmental services when feasible. See forthcoming OMB guidance on ecosystem services for additional discussion on how to capture the welfare effects of ecosystem and environmental services.”).

⁷ Executive Order No. 14072, *Strengthening the Nation's Forests, Communities, and Local Economies* § 4(b), 87 FR 24851, 24854 (Apr. 27, 2022).