

UNITED STATES DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In the Matter of

**Schedules of Controlled Substances:
Proposed Rescheduling of Marijuana**

**DEA Docket No. 1362
Hearing Docket No. 24-44**

**ORDER REGARDING REQUEST FROM A NON-PARTICIPANT
(Veterans Action Council)**

On May 21, 2024, the United States Department of Justice through the Drug Enforcement Administration (DEA) issued a notice of proposed rulemaking (NPRM) proposing to transfer marijuana from Schedule I of the Controlled Substances Act (CSA) to Schedule III. *Schedules of Controlled Substances: Rescheduling of Marijuana*, 89 Fed. Reg. 44597, 44597 (2024). Following the publication of the NPRM, the DEA Administrator determined that in-person hearing proceedings would be appropriate, and in an order dated August 29, 2024 (General Notice of Hearing or GNoH), fixed a December 2, 2024 commencement date. *Schedules of Controlled Substances: Rescheduling of Marijuana*, 89 Fed. Reg. 70148, 70148-49 (2024). Following the publication of the General Notice of Hearing, this tribunal received a hand-carried letter from the DEA Administrator designating a list of twenty-five “participants” (the Designated Participants) to take part in the proceedings. On October 31, 2024, this tribunal issued a preliminary order outlining a series of procedural and logistical directives addressed to the Designated Participants.

Yesterday, this tribunal received a motion¹ filed on behalf of the Veterans Action Council (the VAC) which, *inter alia*, seeks status as a participant in these proceedings.² Inasmuch as the VAC was not included in the Administrator’s list of Designated Participants in these proceedings, no action can or will be taken on its request.³

¹ The motion was accompanied by a letter which, *inter alia*, opposes the proposed rescheduling action described in the NPRM and avers that the hearing on the merits should center around the proposed transfer of marijuana from Schedule I to Schedule V under the CSA (not currently the subject of the NPRM).

² All deadlines fixed by the NPRM and the GNoH for the submission of materials by the public have expired.

³ To be sure, on its face, the Administrator’s designation of Designated Participants (and the VAC’s exclusion from that list) bears the hallmarks of a final order within the meaning of the Administrative Procedure Act and the

Dated: November 15, 2024

JOHN J. MULROONEY, II
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

This is to certify that the undersigned, on November 15, 2024 caused a copy of the foregoing to be delivered to the following recipients: (1) James J. Schwartz, Esq., Counsel for the Government, via email at james.j.schwartz@dea.gov; Jarrett T. Lonich, Esq., Counsel for the Government, via email at jarrett.t.lonich@dea.gov; and S. Taylor Johnston, Esq., Counsel for the Government, via email at stephen.t.johnston@dea.gov; (2) the DEA Government Mailbox, via email at dea.registration.litigation@dea.gov; (3) Shane Pennington, Esq., Counsel for Village Farms International, via email at spennington@porterwright.com; and Tristan Cavanaugh, Esq., Counsel for Village Farms International, via email at tcavanaugh@porterwright.com; (4) Nikolas S. Komyati, Esq., Counsel for National Cannabis Industry Association, via email at nkomyati@foxrothschild.com; William Bogot, Esq., Counsel for National Cannabis Industry Association, via email at wbogot@foxrothschild.com; and Khurshid Khoja, Esq., Counsel for National Cannabis Industry Association, via email at khurshid@greenbridgelaw.com; (5) John Jones and Dante Picazo for Cannabis Bioscience International Holdings, via email at ir@cbih.net; (6) Andrew J. Kline, Esq., Counsel for Hemp for Victory, AKline@perkinscoie.com; and Abdul Kallon, Esq., Counsel for Hemp for Victory, via email at and AKallon@perkinscoie.com; (7) Erin Gorman Kirk for the State of Connecticut, via email at erin.kirk@ct.gov; (8) Ellen Brown for Massachusetts Cannabis Advisory Board, via email at ellen@greenpathtraining.com; (9) Shanetha Lewis for Veterans Initiative 22, via email at info@veteransinitiative22.com; (10) Jason Castro, Esq., Counsel for The Doc App., Inc. d/b/a My Florida Green, via email at jasoncastro@myfloridagreen.com; (11) Kelly Fair, Esq., Counsel for The Commonwealth Project, via email at Kelly.Fair@dentons.com; (12) Rafe Petersen, Esq., Counsel for Ari Kirshenbaum, via email at Rafe.Petersen@hkllaw.com; (13) David G. Evans, Esq., Counsel for Cannabis Industry Victims Educating Litigators, Community Anti-Drug Coalitions of America, Phillip Drum, Kenneth Finn, International Academy on the Science and Impacts of Cannabis, and National Drug and Alcohol Screening Association, via email at thinkon908@aol.com; (14) Patrick Philbin, Esq., Counsel for Smart Approaches to Marijuana, via email at pphilbin@torridonlaw.com; and Chase Harrington, Esq., Counsel for Smart Approaches to Marijuana, via email at charrington@torridonlaw.com; (15) Stephanie E. Masker, Esq., Counsel for National Transportation Safety Board, via email at stephanie.masker@ntsb.gov; (16) Eric Hamilton, Esq., Counsel for the State of Nebraska, via email at eric.hamilton@nebraska.gov; and Zachary Viglianco, Esq., for the State of Nebraska, via email at zachary.viglianco@nebraska.gov; (17) Gene Voegtlin for International Association

Controlled Substances Act. 5 U.S.C. § 704; 21 U.S.C. § 877. That said, the issue may not be altogether settled. *See Miami-Luken, Inc. v. DEA*, 900 F.3d 738, 743 (6th Cir. 2018) (The court held that a subpoena decision is not rendered final merely because the agency's highest authority issued the decision prior to an ultimate disposition of the case.).

of Chiefs of Police, via email at voegtlin@theiacp.org; (18) Gregory J. Cherundolo for Drug Enforcement Association of Federal Narcotics Agents, via email at executive.director@afna.org; (19) Reed N. Smith, Esq., Counsel for the Tennessee Bureau of Investigation, via email at Reed.Smith@ag.tn.gov; and Jacob Durst, Esq., Counsel for Tennessee Bureau of Investigation, via email at Jacob.Durst@ag.tn.gov; (20) Jim Skinner for National Sheriff's Association, via email at sheriffs Skinner@collincountytx.gov and ykaraman@sheriffs.org; and (21) Michael Krawitz for the Veterans Action Council, via email at veteransactioncouncil@gmail.com.

Quinn Fox
Staff Assistant to the Chief Judge
Office of Administrative Law Judges