



September 30, 2024

Drug Enforcement Administration
Attn: Hearing Clerk/OALJ
8701 Morrisette Drive
Springfield, Virginia 22152

Subject: Notice of Appearance (Docket No. DEA-1362)

Dear Administrator Milgram,

The State of Colorado requests to appear in the matter of The Rescheduling of Marijuana, 89 Fed. Reg. 44,597 (the "Proposed Rule") currently scheduled to take place on December 2, 2024.

(A) The State of Colorado has standing to participate in this administrative hearing as an "interested person" defined under 21 CFR 1300.01(b). The State is requesting the below listed parties participate at the hearing to offer distinct factual evidence and expert opinion regarding the rescheduling of marijuana. The State's status as an "interested person" as defined in §1300.01, and the status of the representatives requesting to participate in the hearing on behalf of Colorado, are detailed further below.

The State's public officials who have a role in administering, overseeing and advising on the success of Colorado's marijuana framework, as well as the people of Colorado, will be adversely affected or otherwise aggrieved by the Proposed Rule if marijuana remains a Schedule I Controlled Substance.

Colorado's legal marijuana industry has generated over \$16.3 Billion in sales over the past 10 years and has generated over \$2.7 Billion in state tax and fee revenue. This industry has contributed to well over 40,000 jobs of just those directly involved in the industry, in addition to the tens of thousands of professionals in ancillary industries who support the marijuana industry. As this sector continues to grow at a rapid pace, the State is concerned that a federal rescheduling determination that lacks important insights and subject matter expertise from Colorado officials will introduce significant risks to the State's marijuana framework, the ability to continue to effectively carry out regulatory and policy responsibilities on behalf of the State, and the programs that marijuana tax revenue has funded to support communities across Colorado.

(B) Colorado possesses a cadre of subject matter experts who can provide unique insight related to medical marijuana. The State has had a robust medical program for 24+ years with licensed healthcare professionals and providers making recommendations to treat symptoms related to Autism, Cachexia, Cancer, Glaucoma, HIV/AIDS, Muscle Spasms, PTSD, Seizures, Severe Nausea and Chronic/Severe pain and as an option to avoid using opioids. The State leads a strong medical program with over 63,000 current registered medical marijuana patients including over 22,400 patients who have the qualifying condition of anything for which an opioid may be

prescribed. Given the country's opioid epidemic, our evidence of marijuana having medical utility and abuse potential far below opioids would inform DEA's process.

Our data is relevant, unique and, non-duplicative of any other state and our experts are well suited to inform the administrative process as the DEA considers the rescheduling of marijuana under the Controlled Substances Act.

The DEA's notice of rulemaking directly referenced Colorado data that our experts are prepared to address. Specifically, the notice of proposed rulemaking reference of public health risks associated with driving under the influence of marijuana, cited traffic deaths in Colorado. The data cited in the notice lacks important context that must be considered in this rulemaking. The public officials listed herein as interested parties are prepared to provide the context and additional data on traffic safety necessary to inform the rescheduling determination.

In addition, the State has robust data on youth use, which is directly relevant to DEA's analysis regarding abuse potential. Notably, the questions we ask in our Healthy Kids Colorado Survey has more specific survey questions related to use and perceptions of use than SAMSHA's National Survey on Drug Use and Health and CDC's Youth Risk Behavior Surveillance System. Importantly, our data will show that youth use has not increased post legalization. Colorado youth continue to use marijuana at lower rates than their peers nationally. While we acknowledge harms associated with illicit use, the overwhelming conclusions demonstrate that the legalization of marijuana in our state is contributing to decreased youth use, not the opposite.

(C) Our public officials have significant subject matter expertise regulating the medical and adult-use markets over the past decade and are prepared to testify regarding data attributable to medical use in treatment in the United States and relative abuse potential of marijuana. Our State is particularly well situated to provide this insight as we are one of the first states to legalize and regulate medical marijuana and the first to legalize adult-use.

For more than 10 years, our Senior Director of Enforcement at the Marijuana Enforcement Division (MED), Dominique Mendiola, has served as a regulator for the MED. Mendiola is also the current President of the Cannabis Regulators Association (CANNRA), a national association of agencies responsible for regulating cannabis and cannabinoids. She has a perspective that is relevant and distinct from other state regulators. Other states have and continue to look at Colorado as a role model for what their state can do to protect public health. A federal rescheduling consideration that lacks clear guidance on how priorities and roles will change presents uncertainties and risks that can compromise the diligent efforts she and her MED team have made on behalf of the State.

Ean Seeb is our Governor's Special Advisor on Cannabis and Natural Medicine. He brings unique insights having been both an early industry operator in Medical and Adult-Use marijuana and has been part of our senior policy team for over half a decade, during which time the State has evolved on dozens of marijuana laws and regulations. As an advisor and partner to agencies charged with administering the State's marijuana program, a federal rescheduling consideration that references incomplete Colorado data and that lacks clear guidance on how priorities and roles will change under a proposed rescheduling presents similar uncertainties that will impact Seeb's ability to most effectively carry out his role on behalf of the State.

For the above reasons, the State of Colorado is filing this written request to have the parties referenced above participate at the upcoming Administrative Law Hearing scheduled December, 2nd, 2024. This notice of intention to participate conforms with 21 CFR 1308.44(b), by describing (a) the identity and interests of the parties who will participate in the hearing on behalf of the State of Colorado; (b) the details of the objections and issues concerning the matters to be heard; and (c) the positions of the parties regarding their objections and issues they are prepared to speak about in the hearing.

I look forward to your response, which I'm confident will align with the DOJ's commitment to conducting a transparent, balanced, and well-informed proceeding.

Respectfully,

A handwritten signature in blue ink, appearing to read "Jared Polis", is positioned below the word "Respectfully,".

Jared Polis
Governor
State of Colorado

All notices to be sent pursuant to this hearing should be addressed to the addresses listed below:

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