

# DEA Hints at More Cannabis Rescheduling Participants

## DEA May Allow Additional Testimony in Upcoming Cannabis Rescheduling Hearings

The U.S. Drug Enforcement Administration (DEA) could expand the number of participants allowed to testify at its upcoming hearings on marijuana rescheduling. Initially, the DEA designated 25 participants for the December 2 hearing, but recent developments suggest the agency might consider more voices.

The potential shift comes from a November 15 order by DEA Chief Administrative Law Judge John Mulrooney II. While rejecting a veterans advocacy group's request to join the hearings, Mulrooney hinted at the possibility of changes to the participant list.

### Veterans Group Denied Participation

On November 14, the Veterans Action Council (VAC), which advocates for cannabis access for military veterans, submitted a petition requesting "status as an interested party." The group argued that its exclusion from the designated participant list, announced by DEA Administrator Anne Milgram on October 31, was a mistake.

Despite this appeal, Mulrooney denied the request, stating that no action could be taken as the VAC was not included in Milgram's list.

### Push for Alternative Rescheduling Options

The VAC strongly supports moving marijuana to Schedule 5 or descheduling it entirely, rather than the DEA's proposed reclassification to Schedule 3.

**Schedule 3 Implications:** Reclassifying marijuana to Schedule 3 would relieve businesses of certain tax burdens under Section 280E of the Internal Revenue Code.

**Schedule 5 Benefits:** Drugs in Schedule 5 face fewer restrictions, are often available over the counter, and are exempt from 280E taxation.

Critics argue that Schedule 3 is ill-suited for the \$32 billion legal marijuana industry, as it primarily includes drugs approved by the FDA and prescribed by doctors.

### Legal Pathways and Appeals

Although Mulrooney rejected the VAC's petition, he noted in a footnote that the issue might still be open for review. Referencing case law, he implied that a final resolution might not occur until the hearings conclude.

The group is now weighing its next steps, with the hearing process still in flux.

## **A Complicated Path Forward**

The DEA's marijuana rescheduling proposal, announced in May, aims to shift cannabis from Schedule 1 to Schedule 3 under the Controlled Substances Act. In October, Milgram announced that the matter would be reviewed by an administrative law judge starting in December.

## **Changes to Participant List**

The Dec. 2 hearing will focus on determining whether participants meet the criteria to remain involved in the process.

To qualify, parties must demonstrate they are "adversely affected" by the proposal.

However, the participant list is already in flux:

**Withdrawals:** The American College of Occupational and Environmental Medicine will no longer participate after missing a deadline. Additionally, oncologist Chad Kollas declined to proceed.

**Consolidations:** Five participants, represented by New Jersey attorney David Evans, share similar opposition to cannabis reform.

## **Next Steps**

Observers expect further hearings in January and February to refine the DEA's marijuana rescheduling plan.

The evolving process underscores the complexity of federal marijuana policy reform, with advocacy groups, medical professionals, and regulatory agencies all vying for influence.

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