



### Department of Justice Drug Enforcement Administration

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**BILLING CODE: 4410-09-P****UNITED STATES DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION****[Docket No. 05-16]****Lyle E. Craker, Ph.D.; Denial of Application; Change in Effective Date**

By Final Order dated January 7, 2009, I denied the application of Lyle E. Craker, Ph.D. (Respondent), to become registered as a bulk manufacturer of marijuana. The Final Order, which was published in the Federal Register on January 14, 2009 (74 FR 2101), was to become effective February 13, 2009. On January 30, 2009, Respondent submitted to me a document entitled "Request for Opportunity Under 5 U.S.C. § 556(e) To Respond to New Officially Noticed Evidence and Motion for Reconsideration." As that request and motion remain pending before me, the effective date of the Final Order is hereby changed from February 13, 2009, to April 1, 2009.

Dated:

2/9/09



Michele M. Leonhart

Deputy Administrator

**UNITED STATES DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION**

[Docket No. 05-16]

**Lyle E. Craker, Ph.D.; Order in Response to Respondent's Request  
Under 5 U.S.C. 556(e) to Respond to Officially Noticed Evidence  
and Motion for Reconsideration**

By Final Order dated January 7, 2009, I denied the application of Lyle E. Craker, Ph.D. (Respondent), to become registered as a bulk manufacturer of marijuana. The Final Order was served on Respondent on January 8, 2009, and published in the Federal Register on January 14, 2009 (74 FR 2101). As stated in the Final Order, it was to become effective February 13, 2009.

By letter to me dated January 21, 2009, Respondent, through his counsel, noted that, in several places in the Final Order, I indicated that I was taking official notice of certain documents that were not submitted during the administrative hearing. With respect to such documents, the Final Order states: "To allow Respondent the opportunity to refute the facts of which I take official notice, Respondent may file a motion for reconsideration within fifteen days of service of this order which shall commence with the mailing of the order." Thus, as Respondent's counsel indicated, under the Final Order, Respondent had until January 23, 2009, to file a motion for reconsideration of the facts of which I took official notice. In her January 21, 2009, letter, counsel for Respondent requested an extension of this filing deadline until January 30, 2009. I granted this request for an extension by letter dated January 22, 2009.

On January 30, 2009, Respondent submitted to me a document entitled "Request for Opportunity Under 5 U.S.C. § 556(e) To Respond to New Officially Noticed Evidence and Motion for Reconsideration" (hereafter, "Respondent's request and

motion"). In Respondent's request and motion, he provides a preliminary response to those documents of which I took official notice. However, Respondent asserts that, given the length of the Final Order as well as that of the documents of which I took official notice, he needs still more time to respond to the latter pursuant to 5 U.S.C. 556(e). Specifically, Respondent asks that I grant him "60 days in which to present additional documentary evidence, live testimony and argument refuting the facts officially noticed." Respondent further points out that, in the absence of further agency action to the contrary, any petition for review that he might wish to file in the United States Court of Appeals pursuant to 21 U.S.C. 877 would need to be filed within 30 days of notice of the Final Order, which would be February 13, 2009. Counsel for the Government has not filed a response to Respondent's request and motion.

In view of Respondent's request and motion, and to ensure that Respondent is given a full opportunity to respond to the documents of which I took official notice, I hereby grant Respondent's request in part, as follows. Respondent shall have until March 11, 2009, to supplement his response and motion. Respondent shall serve a copy of such supplemental filing upon counsel for the Government by facsimile and regular mail. If Counsel for the Government wishes to file a response, it shall do so no later than 15 days after being served with Respondent's submission, and it shall serve a copy of such filing with counsel for Respondent in the same manner. Based upon these submissions, I will decide whether to grant (i) Respondent's request to reopen the administrative hearing to present "live evidence" or any additional evidence that Respondent might seek to present if the hearing were reopened and/or (ii) the remainder of Respondent's request and motion.

To provide sufficient time to consider Respondent's request and motion, the effective date of the Final Order is changed from February 13, 2009, to April 1, 2009 (unless changed subsequently by my further order).

Respondent states that he has been unable to locate two of the documents of which I took official notice. The first document, a 2008 press release issued by the International Narcotics Control Board, is available at [www.unis.unvienna.org/unis/pressrels/2008/unisnar1023.html](http://www.unis.unvienna.org/unis/pressrels/2008/unisnar1023.html). (Due to a typographical error, this URL was incorrectly stated in the Final Order.) The second document, a Department of Justice letter contained in the record of a 2004 Congressional hearing published by the Government Printing Office, is available at [www.access.gpo.gov/congress/house/pdf/108hrp/96746.pdf](http://www.access.gpo.gov/congress/house/pdf/108hrp/96746.pdf). (The Final Order referenced this document using the Bluebook citation but did not include the URL.)

Dated: 2/9/09

  
Michele M. Leonhart,  
Deputy Administrator