

DEPARTMENT OF JUSTICE
Drug Enforcement Administration
21 CFR Part 1308

Schedules of Controlled Substances;
Deletion of 3,4-
Methylenedioxymethamphetamine
(MDMA) From Schedule I of the
Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.
ACTION: Final rule.

SUMMARY: By order of the the United States Court of Appeals for the First Circuit, the previous order of the Administrator of the Drug Enforcement Administration (DEA) placing 3,4-Methylenedioxymethamphetamine (MDMA) into Schedule I was vacated effective December 22, 1987. This rule will delete 3,4-Methylenedioxymethamphetamine (MDMA) from Schedule I.

EFFECTIVE DATE: The effective date of this order is January 27, 1988.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: On October 8, 1986, the Administrator of DEA signed a final order placing 3,4-Methylenedioxymethamphetamine (MDMA) into Schedule I of the Controlled Substances Act pursuant to a rulemaking proceeding. This order was published as a final rule in the Federal Register, on October 14, 1986. (51 FR 36552). The effective date of the order was November 13, 1986.

Dr. Lester Grinspoon, a party to the rulemaking proceedings, appealed the Administrator's order to the United States Court of Appeals for the First Circuit. On September 18, 1987, the Court issued its opinion vacating the Administrator's order and remanding the case to him for further proceedings. (828 F.2d 881). Following denial of the agency's petition for rehearing *en banc*, the Court issued its mandate on December 22, 1987.

This rule will delete MDMA from Schedule I until such time as the Administrator reconsiders the record in the scheduling proceeding and issues another final rule. While this rule removes MDMA from Schedule I, the illegal manufacture, distribution and possession of MDMA with intent for human consumption is a violation of the

Controlled Substances Act. (21 U.S.C. 813).

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the removal of MDMA from Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act. (Pub. L. 96-354). This action removes a substance from control under the Controlled Substances Act.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)), this decontrol action is part of a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to provisions of the Administrative Procedures Act, 5 U.S.C. 556 and 557, and as such have been exempted from the consultation requirements of Executive Order 12291 (49 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the Controlled Substances Act (21 U.S.C. 811(a)); and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice, 28 CFR 0.100(b); and pursuant to the order of the United States Court of Appeals for the First Circuit, the Administrator hereby orders that Part 1308, Title 21, Code of Federal Regulations, be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 871(b).

§ 1308.11 [Amended]

2. Section 1308.11 is amended by removing paragraph (d)(7), and redesignating existing paragraphs (d)(8) through (d)(25) as (d)(7) through (d)(24).

Dated: January 20, 1988.

John C. Lawn,
Administrator.

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