Multidisciplinary Association for Psychedelic Studies
3141 Stevens Creek Blvd, #40563
San Jose, CA 95117

July 10, 2024

Drug Enforcement Administration
Attn: DEA Federal Register Representative/DPW
8701 Morrissette Drive
Springfield, Virginia 22152

RE: Docket No. DEA-1362

We are submitting this comment on behalf of the Multidisciplinary Association for Psychedelic Studies (MAPS), a non-profit research and educational organization founded in 1986 that develops medical, legal, and cultural contexts for people to benefit from the careful use of psychedelics and cannabis.

MAPS acknowledges the catalytic nature of the President's proclamation on cannabis and the subsequent recommendation from Health and Human Services (HHS) and proposal from the US Attorney General (AG) to reclassify cannabis from Schedule I to Schedule III. Bringing a complete end to this country's criminalization of plant medicines and those who use and sell them is long overdue, and rescheduling is one first step of many. Among other things, rescheduling cannabis will have significant positive benefits including the easing of clinical and other research, and reducing tax burdens on state-legal cannabis operations. It is a first step in moving toward a more cohesive and evidence-based drug policy.

While MAPS supports rescheduling, we also believe that descheduling is appropriate. We urge Congress to take this momentum forward by fully exempting the plant from the US Controlled Substances Act (CSA) and establishing a legal framework to regulate cannabis. This framework should be driven by science, public health policy, restorative justice, and equity, and requires an end to cannabis prohibition and a sunsetting of cannabis-related criminal penalties and collateral consequences.

Background:

More than 50 years ago, following the introduction and ratification of international drug treaties, including the Single Convention of Narcotic Drugs, cannabis was designated as a Schedule I controlled substance. Under the CSA, this classification deemed cannabis to have a high potential for abuse and no accepted medical use, and set the formal groundwork for the next decades of criminalization and enforcement.

The disproportionate enforcement of the nation's cannabis laws has been most strongly felt by Black Americans. The stigma of the plant, coupled with implicit bias and an emphasis on punishment, has left Black communities with the dual onslaught of organized crime seeking to capitalize on demand, and disproportionate, militarized policing. These circumstances have led to an intractable web of social, economic, and public health consequences. Generations of wealth and human capital were extracted from Black communities in the name of cannabis prohibition. In that context, the racially disparate War on Cannabis became integral to American life.

Cannabis prohibition has limited research and restricted the cultivation and procurement of the plant for investigational medical and academic purposes. In turn, the dearth of scientific research on the potential therapeutic uses of cannabis and its true risks has caused petitions seeking reclassification to fail time and time again. MAPS has worked for decades to encourage and spearhead efforts seeking to inform evidence-based cannabis policy, including successfully completing one Phase II trial evaluating cannabis' safety and efficacy for the treatment of PTSD. However, for the last two years, the FDA has been blocking MAPS from conducting a second Phase II trial of smoked or vaporized cannabis in 320 veterans with PTSD, prompting MAPS to initiate an FDA Formal Dispute Resolution Request (FDRR). In addition, MAPS fought to end the DEA-enforced monopoly of the National Institute of Drug Abuse (NIDA) on cannabis for research, and today additional organizations can be issued bulk manufacture licenses to advance clinical research. We're glad to see some of our efforts, and the efforts of people and organizations across the movement, begin to have an impact.

Regulatory Implications:

In general, we are also encouraged to see how federal agencies are shifting their stance on drug policy as evidenced by this process. The two-part test presented by Assistant Secretary Rachel Levine in her August 29 letter from DEA Administrator Anne Milgram establishes a new direction for HHS by expanding the scope of data it will consider when making determinations about the medical use factor established by the CSA and its drug schedules. Part 1 considers if there is "(1) widespread current experience with medical use of the substance in the United

States by licensed health care practitioners operating in accordance with implemented State-authorized programs, where the medical use is recognized by entities that regulate the practice of medicine," in which case, HHS will consider if there is "some credible scientific support for a least one of those medical uses." (See, Letter from Rachel L. Levine, Assistant Secretary for Health for U.S. Public Health Service to Anne Milgram, Administrator of the Drug Enforcement Administration, re: Basis for the Recommendation to Reschedule Marijuana into Schedule III (Aug. 29, 2023)). This legal logic has clear impacts on cannabis' scheduling due to the fact that so many states have established state-legal regulatory programs legalizing cannabis for "medical" or adult use.

As significant as HHS's updated analysis, the recent guidance from the Office of Legal Counsel (OLC) challenges the idea that the United States would be required to keep a drug in Schedule I to meet its obligations under the Single Convention. OLC's conclusion - that the DEA can add regulatory restrictions after rescheduling and stay in compliance with its treaty requirements (see, Questions Related to the Potential Rescheduling of Marijuana, 48 Op. O.L.C. (Apr. 11, 2024)) - is a massive shift from as recently as 2018 when it stated that DEA could not license additional manufactures even while following Schedule I controls. That international obligations can be met without dictating particular scheduling under the CSA allows additional flexibility and creativity when reconsidering drug control as a whole.

Recommendations:

Together, these changes point to an obvious conclusion: the current administrative review process is flawed, and changes are in order. Drug policy should be driven by public health, not criminal enforcement. Even the extensive legal changes above fail to sufficiently respond to the overwhelming negative social, economic, and public health consequences of prohibition. A contemporary and evidence-based review policy for cannabis would include a more holistic analysis that takes those detrimental impacts seriously and includes them when making decisions about drug control going forward. These implications extend across all branches of government.

For example, the Biden Administration understands the racially discriminatory enforcement of cannabis laws and related harms, and ought to consider this history when developing new federal drug policy - anything otherwise is a missed opportunity. Because of the way the CSA is enforced in practice through the systemic policing of poor, disproportionately Black and brown youth, neither rescheduling nor descheduling alone will end de facto criminalization including arrests, incarceration, deportations, or the collateral consequences of cannabis-related

convictions (including the denial of government benefits and employment) - only comprehensive action across all branches of government can provide sufficient retroactive repair.

Another key action should happen at the level of the judiciary. Logically, reviewing cannabis' scheduling should invite a broader review of the current system of drug sentencing. To date, the US Sentencing Commission's drug sentencing guidelines are calculated as a ratio to cannabis. (See, 2018 Chapter 2 D (November 2007)). For example, possession of one gram of MDMA is calculated as equivalent to possessing 500 grams of cannabis. The change to cannabis' status demands a revision to the sentencing guidelines we now know are scientifically incoherent, so we hope to see this revision spur the USSC to re-evaluate its drug sentencing guidelines.

Finally, Congress should permit interstate commerce, promote social equity, protect vibrant local economies, create appropriate regulatory frameworks based on the actual risks and commercial realities of the plant, and comprehensively repair the harms of the war on drugs. Guided by principles of public health and equity, these frameworks should eliminate unjust criminal legal consequences for cannabis-related activity and restore resources, rights, and opportunities for individuals and communities targeted by cannabis criminalization.

Conclusion:

Evidence demonstrates, and the general public believes, cannabis should be legal for adult use. President Biden has repeatedly promised to decriminalize cannabis, but even before the President's proclamation, the CSA's process of evaluating the medicinal qualities of drugs has proved inadequate. Cannabis need not be in the CSA at all, and we support our colleagues across the movement who urge for Congress to deschedule cannabis entirely.

We hope that this inquiry into cannabis' status will initiate a more holistic, multi-agency analysis that considers the harms of prohibition as it develops solutions to our current inadequate system of drug control. This analysis will undoubtedly point toward the need to evaluate other drugs and policies through a more comprehensive and evidence-based lens.