

Submitted via: nprm@dea.gov

May 26, 2026

Drug Enforcement Administration, Attn: Administrator
8701 Morrisette Drive
Springfield, Virginia 22152

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8701 Morrisette Drive
Springfield, Virginia 22152

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

Dear Administrator:

Please take notice that Douglas W. Martin, MD, FACOEM, FAAFP, FIAIME will appear in the matter of *Schedules of Controlled Substances: Rescheduling of Marijuana* (Docket No. DEA-1362) as the primary representative on behalf of the American College of Occupational and Environmental Medicine (ACOEM) and Natalie P. Hartenbaum, MD, MPH, FACOEM will appear as the alternate representative if necessary.

(A) (State with particularity the interest of the person in the proceeding.)

Douglas W. Martin, MD, FACOEM, FAAFP, FIAIME

Dr. Martin is certified by the American Board of Family Medicine and has had a full-time occupational medicine practice in the Sioux City, Iowa region for 32 years. Dr. Martin served as ACOEM Medical Review Officer (MRO) Section Chair for 20 years (2000-2020) and is currently the Course Chair of the MRO ACOEM Training Courses. He has authored several ACOEM responses to Notices of Proposed Rulemakings on federal drug testing issues and has been a coauthor on several ACOEM papers on cannabis and implications for workplace safety. Dr. Martin also currently serves on the Board of Directors of the Medical Review Officers

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Certification Council (MROCC) as its Secretary-Treasurer. MROCC is responsible for the testing and certification of MROs.

Dr. Douglas Martin has been involved in fitness for duty determinations and is a subject matter expert in this field. He served on the Federal Motor Carrier Safety Administration (FMCSA) Certification WIPT that wrote the questions for the National Registry of Certified Medical Examiners (NRCME) certification exam that all medical providers must pass in order to perform commercial driver medical examinations. He teaches NRCME Training for family physicians and has an online training course offered via the Iowa Academy of Family Physicians. He also is a subject matter expert for the Federation of State Physician Health Programs (FSPHP) which is the organization that among other initiatives, provides certification for treatment facilities that provide drug and alcohol rehabilitation for health care providers across the country.

Dr. Martin is a past president of ACOEM and currently serves on its Board of Directors. He was also on the Board of Directors of the Iowa Medical Society and has worked closely with the Iowa Safety Council on a variety of workplace health and safety initiatives. He was presented with the Governor's Iowa Safety Council Gary Hawk Award that is presented to individuals who have made significant contributions to healthier and safer workplaces in 2019.

Natalie P. Hartenbaum, MD, MPH, FACOEM (Alternate)

Dr. Natalie Hartenbaum is certified by the American Board of Internal Medicine and the American Board of Preventive Medicine (Occupational Medicine

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in Occupational and Environmental Medicine). She has been listed on the Federal Motor Carrier Safety Administration's (FMCSA) NRCME since its inception and is a certified MRO. Dr. Hartenbaum has extensive experience in clinical, corporate, and academic settings. She is a nationally recognized expert in workplace drug testing and occupational fitness for duty with a special focus on transportation.

Dr. Hartenbaum has participated in several related projects including serving as Chair of ACOEM's Cannabis in the Workplace Task Force; the National Safety Council's Impairment Advisory Board; FMCSA Medical Expert Panels on Schedule II Medications; National Academy of Science's Panel on Research Methodologies and Statistical Approaches to Understanding Driver Fatigue Factors in Motor Carrier Safety and Driver Health; Medical Standards for Railroad Workers for the Federal Motor Railroad Administration; and Prescription and Over-the-Counter Medication Toolkit for the Federal Transit Administration.

Dr. Hartenbaum is on the teaching faculty at the University of Pennsylvania. She is a Past President of ACOEM and a former member of the Board of Trustees of the American Board of Preventive Medicine.

ACOEM's interest in this matter is to protect the health of American workers and the public by ensuring commercial and public transportation safety. ACOEM is the nation's largest medical society dedicated to promoting worker health through preventive medicine, clinical care, research, and education. The College represents Occupational and Environmental Medicine (OEM) physicians and other healthcare professionals devoted to preventing and managing occupational and environmental

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injuries and exposures. Many of our member physicians serve as MROs under the U.S. Department of Transportation's (DOT) drug testing program or Commercial Driver Medical Examiners under the FMCSA's Medical Standards program.

This proposed action would directly impact our members and the workers they serve, as rescheduling would end the DOT's ability to test safety-sensitive transportation employees for marijuana drug testing and effect deterrence for commercial transportation safety-sensitive employees across the nation. Safety-sensitive employees have been subject to testing for marijuana and other drugs since shortly after catastrophic accidents caused by marijuana use occurred in the mid and late 1980s. Rescheduling marijuana to Schedule III would abruptly end DOT-regulated testing for marijuana, which could jeopardize transportation safety in the U.S., potentially endangering American workers and the public.

As mentioned above, our members are on the front lines of protecting the safety of commercial and public transportation nationwide. As physicians, our members have an ethical and professional obligation to care for the health of workers and the public by serving in roles that help maintain effective measures to prevent needless accidents caused by those under the influence of marijuana and other impairing substances.

(B) State with particularity the objections or issues, if any, concerning which the person desires to be heard.).

ACOEM, via Dr. Martin, would like to provide expert testimony at the hearing on the serious potential unintended consequences that may impact public health and safety if they are not addressed before any change in marijuana's schedule

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under the Controlled Substance Act (CSA). This testimony will focus on the eight factors set forth for rescheduling under the CSA in 21 U.S.C. 811(c), emphasizing factor six (What, if any, risk there is to the public health). Dr. Martin's testimony will also focus on concerns regarding the unintended consequences of this proposed action on related Federal rules.

(C) (State briefly the position of the person with regard to the particular objections or issues.)

ACOEM is concerned that if the final decision is to move marijuana to Schedule III, there will be significant problems ensuring safety in the workplace (e.g., drug testing safety-sensitive workers). The U.S. Department of Health and Human Services (HHS) does not have the authority to test for Schedule III drugs. The authority of HHS to test for and to certify laboratories for testing is provided by Executive Order 12564— Drug-free Federal Workplace of Sept. 15, 1986 (E.O. 12564). Under E.O. 12564, HHS is only authorized to test for drugs and certify laboratories to test for drugs that are in Schedule I or II for the CSA. Specifically, E.O. 12564, Section 7(c) states: “For purposes of this Order, the term ‘illegal drugs’ means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code.” Sections 3.2 (a) of both the HHS Mandatory Guidelines for Urine and the HHS Mandatory Guidelines for Oral Fluid state that an employee may be tested for “any drugs listed in Schedule I or II of the Controlled Substances Act.”

If marijuana becomes a Schedule III substance, HHS would no longer be able to test for or certify laboratories to test for marijuana. As a result, DOT immediately

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would no longer be able to test for marijuana because The Omnibus Transportation Employee Testing Act of 1991 (OTETA) requires the DOT to rely on HHS for the science of drug testing (the drug cutoffs and scientific protocols), as well as conducting all DOT-regulated testing through HHS-certified laboratories.

ACOEM believes that additional research on the safety, efficacy, risks, and benefits of marijuana is needed. This must include how these may differ on many factors, including, but not limited to, the potency (concentration of the active ingredient(s) of the final product), the route of consumption, potential interaction with other medications or treatments, and the appropriate dose and dosing scheduling. It is not currently possible to provide information regarding the duration of impairment and safety incapacitation after use, given the lack of a well-established and agreed-upon threshold of impairment combined with widely varying doses in products, various routes of administration, and in the case of oral use, varying rates of GI absorption. While a better method is needed for drug testing in a deterrence-based program, in those industries where working while under the influence would present a significant public health/safety risk, the current process should be replaced with a better process, not eliminated. There is a need to move forward with identifying and implementing better test modalities to shorten the window of detection for marijuana but retain the ability to test for this substance in federal and private safety sensitive drug testing programs employees.

ACOEM believes it is essential that if marijuana is moved out of Schedule I, employers should be free to enact policies regarding allowing or precluding marijuana/cannabinoids in their workers in any safety sensitive work (including

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motor vehicle operation, other modes of transportation, forklift driving, overhead crane operation, heavy equipment operation, work with sharps, work with the risk of injury (e.g., heights) and tasks involving high levels of cognitive function).

While ACOEM recognizes that HHS's scientific and medical determinations are accorded "significant deference" through the rulemaking process, we believe there is a wide range of evidence related to the scientific and medical determinations on the issues at hand, which does not present a clear-cut evidence base to support this proposed action. In ACOEM's view, of the 8-factor analysis used to reschedule a drug, the only one where there is consistent, universally agreed sufficient research is that marijuana is not an immediate precursor of a substance that is already controlled. From ACOEM's perspective, the ability to conduct research into the appropriate placement of marijuana on the CSA and mechanisms to mitigate potential impacts on public safety is essential. Potential barriers to this research must be addressed before this proposed action is finalized, to ensure that there is an acceptable risk to public health and safety.

All notices to be sent pursuant to this appearance should be addressed to:

Douglas W. Martin, MD, FACOEM, FAAFP, FIAIME
American College of Occupational and Environmental Medicine (ACOEM)
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Schaumburg, IL 60173

Respectfully yours,

