

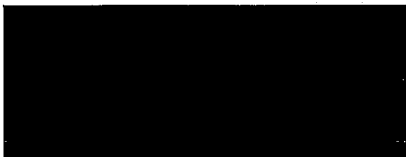


U.S. Department of Justice  
Drug Enforcement Administration

www.dea.gov

Washington, D.C. 20537

MAY 07 2007



Dear [Redacted]

The Office of Diversion Control in the Drug Enforcement Administration (DEA) has received your letter to DEA Administrator Karen P. Tandy dated April 9, 2007, with an attached petition for proposed rulemaking on behalf of [Redacted]. The attached petition, dated July 13, 2006, is signed by the [Redacted]. The petition asks that DEA initiate rulemaking proceedings to adopt a regulation permitting the use of marijuana by members of [Redacted] in their religious practices.

Marijuana is a controlled substance listed in schedule I of the Controlled Substances Act (CSA) and its governing regulations, see 21 U.S.C. § 812(c), schedule I (c)(10); 21 C.F.R. § 1308.11(d)(22). Accordingly, under federal law, marijuana generally may not be used, possessed, or distributed within the United States, 21 U.S.C. §§ 841, 844.

[Redacted] petition cites the Religious Freedom Restoration Act (RFRA) as one of the bases for his request for the proposed rulemaking. The petition states that “[i]t is the petitioner[’s] sincerely held religious belief and practice that marijuana is a divine plant, and it is to be offered with thanksgiving for spiritual happiness and growth.” It further contends that “the government has imposed substantial burdens on the petitioner[’s] exercise of religion.”

RFRA provides that the “Government shall not substantially burden a person’s exercise of religion” unless the Government can demonstrate “that application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000bb-1. As a preliminary matter under RFRA, a person or group seeking a religious exemption must demonstrate that application of the CSA’s prohibitions on marijuana would (1) be a substantial burden to (2) its sincere (3) religious exercise. See *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 126 S.Ct. 1211, 1219 (2006). A petitioner should submit as complete a record as possible on each of these points.

DEA intends to treat [redacted] petition, in part, as a request for a religious exemption from the CSA. His petition, however, does not provide enough information to permit full consideration at this time. Accordingly, we are requesting more detailed information about, among other things, his religion (its structure, organization and belief system), the specific religious practice(s) that involves the use, possession, or distribution of marijuana, the marijuana that he wishes to use, and the conditions of its anticipated use, possession or distribution. I note that the petition attached to your April 9, 2007, letter did not include any of the referenced attachments, including the [redacted]. To fully evaluate [redacted] petition, we would appreciate receiving copies of those attachments.

[redacted] supplemental submission may include a written statement and supporting documents. This information will be fully considered before a decision is issued on his petition. It must be emphasized that a supplemental submission of information cannot guarantee any particular outcome. The petition, along with other factors — such as DEA's governmental interests in restricting the use, possession, or distribution of marijuana — must be fully evaluated.

We offer the following list of questions as guidance on the issues that [redacted] may wish to address in his supplemental submission. While some of these questions may have been addressed in the petition itself (or perhaps, the missing attachments), he may take this opportunity to supplement those responses as well.

A. Questions about [redacted] Organization and Structure

1. Please describe the history of [redacted] including the date and circumstances of its founding.
2. How many branches of the [redacted] exist in the United States?
3. Please describe the number and geographical distribution of the members of the [redacted].
4. What affiliation, if any, does the [redacted] have with other religions that use marijuana?
5. What distinguishes the [redacted] from these groups?
6. Please describe the qualifications for membership in the [redacted] and any restrictions or formal requirements for membership.
7. How are new members brought into the [redacted].
8. Please describe the [redacted] structure and hierarchy.

9. Your petition mentions the [REDACTED] position of [REDACTED]. Who is eligible for this position? How many people hold this position? What are the responsibilities of a [REDACTED]?

10. Your email mentions the [REDACTED]. Who is eligible for these positions? What is their role and what are their responsibilities in the [REDACTED]? What other positions of authority are there within the [REDACTED]?

11. Please describe any gathering places of the [REDACTED] as well as the frequency with which members congregate.

B. Questions about [REDACTED] System

1. Please describe the ultimate ideas or fundamental questions addressed by the [REDACTED].

2. Please describe the [REDACTED] moral or ethical code.

3. Please describe any [REDACTED] holidays and explain their significance.

4. Please provide any written documents such as pamphlets, tracts, brochures, articles, by-laws, or points of order that may be of assistance in understanding the teachings and/or theology of the [REDACTED].

5. Your petition mentions that marijuana is a "divine plant" in the [REDACTED]. Please explain what is meant by this and provide any available documentation. Are there any other divine plants in [REDACTED]?

6. Please explain the role and the significance of marijuana use in the [REDACTED]. Please provide any available documentation.

7. What are the role and the significance of marijuana distribution, if any, in the [REDACTED]. Please provide any available documentation.

8. Is marijuana a "sacrament" in [REDACTED]. If so, what does it represent? Who is permitted to administer the sacrament? Who is permitted to receive it?

9. Your petition mentions that marijuana "is to be offered [REDACTED] for [REDACTED] [REDACTED]". Is marijuana offered to the [REDACTED] deity? Who is that deity? Who within [REDACTED] is eligible to make this offering?

C. Questions about the [REDACTED] Use and/or Distribution of Marijuana

1. Please describe in detail each context in which marijuana is intended to be used by members of [REDACTED]
2. Please describe all ceremonies, rituals, services, or other events of the [REDACTED] that involve marijuana, including the frequency of such events. Please provide any available documentation discussing these events.
3. You have indicated that the [REDACTED] wishes to distribute [REDACTED] of marijuana to each of its members each month. How often will members of [REDACTED] use marijuana during that month?
4. How many members will use marijuana as part of their religious practice?
5. What quantity of marijuana will be used by each member at one time?
6. Are members of the [REDACTED] required to use marijuana?
7. Who within the [REDACTED] is permitted and/or required to use marijuana?
8. Your petition indicates that members must have a "valid or probation exempt status" to receive a distribution of marijuana for religious use. What do these terms mean?
9. Your petition indicates that members must have completed "orientation," "examination and evaluation" in order to receive a distribution of marijuana for religious use. Please provided detailed information about what such "orientation," "examination," and "evaluation" entails.
10. Your petition indicates that members must provide a "background report" each year before they may receive a distribution of marijuana for religious use. Please describe the content of these "background reports" and provide any available documentation.
11. Your petition indicates that [REDACTED] of marijuana will be distributed each month to members of the [REDACTED]. Please estimate the total quantity of marijuana that your organization will require on a monthly basis?
12. How do you intend to acquire the marijuana needed for distribution?
13. Who will be responsible for distributing the marijuana to organization members?
14. May members abstain entirely from marijuana use? If so, under what circumstances?
15. Do members have alternatives to marijuana use? If so, under what circumstances? What are those alternatives?

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16. Does the [REDACTED] have a position regarding the use of marijuana by its members outside of the organization's ceremonies, rituals, services, or other events? What is that position?
17. Your petition describes a [REDACTED] ritual, lead by [REDACTED] at which a total of [REDACTED] of marijuana will be [REDACTED] "as an offering of [REDACTED] in behalf of the [REDACTED]" Please describe this ritual in detail.
18. Please describe the location at which the monthly ritual of burning marijuana will take place.
19. Who may attend the [REDACTED] ritual of [REDACTED]?
20. How and where will the marijuana that is used for this [REDACTED] ritual stored? Who will have access to this marijuana?
21. Does the [REDACTED] require use of marijuana by its members be limited to a particular location(s)?
22. Do members intend to use marijuana together at a central location, or do they intend to use it at their individual homes or at other locations?
23. Please describe all locations where members would use marijuana.
24. Does the theology of [REDACTED] require or encourage distribution of marijuana to organization members? Please elaborate and provide any available documentation.
25. Does the theology of the [REDACTED] require or permit distribution of marijuana to non-members? Please elaborate and provide any available documentation.
26. What, if any, requirements does the [REDACTED] impose on the activity of members after marijuana use? How are such requirements enforced?
27. What, if any, requirements does the [REDACTED] impose on the activity of members prior to marijuana use? How are such requirements enforced?
28. Are there any restrictions on the use of marijuana among [REDACTED] members? If so, what are these restrictions?
29. Are members of the [REDACTED] permitted to share marijuana with non-members? If so, under what circumstances and for what purpose?
30. Is marijuana ever used by members of the [REDACTED] for recreational, medical, or medicinal, rather than religious, purposes?


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31. Does the [REDACTED] have a position regarding the use of other controlled substances by its members? If so, what is that position? Is that position enforced? If so, how?
32. How and where will the [REDACTED] store the marijuana intended for distribution?
33. How and where will the [REDACTED] store the marijuana intended for the [REDACTED] ritual?
34. How and where will members of the [REDACTED] store the [REDACTED] of marijuana distributed to each of them on a monthly basis?
35. Your petition indicates that the [REDACTED] intends to follow all DEA regulatory security requirements, as well as employee screening for non-practitioners. Who specifically within the [REDACTED] organization will be responsible for meeting these security and screening requirements?

As noted above, DEA believes that supplementation is required before a decision can be made on [REDACTED] petition. These questions are only for guidance, and if [REDACTED] chooses to submit additional information, he should not consider himself to be limited to these questions. He should provide any and all information that he believes would be helpful. If, for any reason, your client chooses not to submit supplemental information, please send a letter informing me of that fact.

Supplemental information, including any attachments to the petition, answers to the questions set forth above, and any other documentation, should be sent to my attention at the following address: Mr. Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 2401 Jefferson Davis Highway, Alexandria, VA 22301.

Sincerely,

  
Joseph T. Rannazzisi  
Deputy Assistant Administrator  
Office of Diversion Control