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DEA Agrees to Reclassify Cannabis, But Many Questions Remain

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Today the DEA announced it will accept the Health and Human Services Department's (HHS) recommendation to reclassify cannabis from Schedule I to Schedule III under the Controlled Substances Act.

This move will have a tremendous impact on the cannabis industry, in particular, providing much needed relief from the archaic and burdensome tax provision § 280E. While it is significant for the DEA and the FDA to publicly acknowledge that cannabis should not have been classified as a Schedule I, alongside far more dangerous drugs, and that cannabis does have medical efficacy, the move comes far too late for the millions of Americans whose lives have been negatively impacted by cannabis's Schedule I status and the government's "War on Drugs". This classification does not go far enough to address conflicts between state and federal medical and adult-use cannabis laws, which will continue to criminalize certain conduct and impact those individuals who use cannabis safely, both medically and recreationally.

The proposal to reclassify cannabis does not take immediate effect. Next steps require review by the White House Office of Management and Budget and proceeding through public comment and rulemaking. After the public comment period is over, and other possible administrative or judicial hearings are completed, a final rule will be published. 30 days later, the reclassification will be final. There are many unknowns as to how cannabis may be regulated federally in the aftermath of this historic shift in the federal classification. Our team will continue to monitor and communicate developments.

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