

The Honorable Anne Milgram
Administrator, Drug Enforcement Administration
8701 Morrisette Drive, Springfield, VA 22152

Dear Administrator Milgram,

The undersigned state Attorneys General appreciate the Administration’s “expeditious” scheduling review process for the proper placement of cannabis¹ within the Controlled Substances Act. The undersigned, representing 12 state-regulated cannabis marketplaces, are encouraged to see the U.S. Department of Health and Human Services’ recommendation to the Drug Enforcement Administration (“DEA”) to move cannabis to Schedule III, in the interest of public health and safety. For these reasons, we encourage the DEA to implement a final rule rescheduling cannabis to Schedule III based on the Federal Drug Administration’s scientific and medical conclusions. We see this as a public safety imperative and write in support of this policy change.

As state attorneys general, we have a responsibility to protect consumers and defend public safety. The undersigned are also particularly concerned about the illicit market, unregulated intoxicating hemp-derived cannabinoids, and the continuing proliferation of dangerous opioids. State-sanctioned cannabis markets provide access to regulated products that are clearly safer to what individuals can buy on the street—and supporting the effective operation of these regulated markets thus fits with our commitment to addressing the opioid crisis and rising overdose deaths.

Thirty-eight states and several U.S. territories have legalized the medical use of cannabis. Among those, 24 states and the District of Columbia also allow recreational use by adults 21 years of age. In response to this mandate, states have developed robust regulatory frameworks in efforts to protect consumers from public health risks found in the unregulated illicit marijuana market while also accounting for other recognized risks of marijuana use, especially among youth. These frameworks include seed-to-sale tracking, THC and serving limits, restrictions on minor-directed marketing and advertisements, age verification requirements prior to a sale of marijuana products to limit underage access, packaging and labeling standards, laboratory testing requirements, warning symbols, and regulation of pesticides for use in cultivation of marijuana, among others.²

¹ This letter uses the term cannabis but includes marijuana or marihuana as this term is also used in some state regulated markets.

² See, e.g., 1 COLO. CODE REGS. § 212-3, available at https://sbg.colorado.gov/sites/sbg/files/101122%201%20CCR%20212-3%20FINAL%20ADOPTED%20RULES%20%281%29_0.pdf (Colorado marijuana regulations); Cal. Code Regs. tit. 4 §§ 15000–17905, available at https://cannabis.ca.gov/wp-content/uploads/sites/2/2023/09/dcc_commercial_cannabis_regulations-1.pdf (California marijuana regulations); *Laws & Regulations*, MARYLAND CANNABIS ADMINISTRATION, available at <https://mmcc.maryland.gov/Pages/law.aspx> (Maryland marijuana regulations); 935 MASS. CODE REGS. 500.000, *et seq.*, available at <https://www.mass.gov/doc/935-cmr-500-adult-use-of-marijuana> (Massachusetts marijuana regulations).

While we are not all aligned on the wisdom of fully legalizing cannabis, we do agree, however, that a state-regulated cannabis industry better protects consumers than the illicit marijuana market or the unregulated intoxicating hemp-derived marketplace.

The undersigned appreciate that rescheduling to Schedule III will allow the state-regulated cannabis industry to continue to set the standard for legal products and work to eliminate the illicit market and unregulated intoxicating hemp products that currently operate in interstate commerce. Regardless of the policy choices made, demand for these products will continue. Meeting this demand only in a regulated, legal marketplace better protects consumers. Rescheduling also increases the ability to research cannabis to determine the physical and mental impacts of cannabis use. To date, this research has largely not been possible because of cannabis existing placement in Schedule I of the Controlled Substances Act.

When you consider the economic impact on states, it is material. The regulated cannabis marketplace currently brings billions of dollars of revenue into state and federal governments, with predictions that by 2027, retail cannabis sales will exceed \$53 billion.³

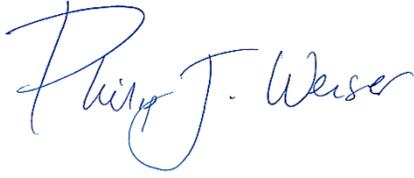
Because Section 280E of the Internal Revenue Code prohibits anyone violating Schedules I or II of the Controlled Substances Act from taking ordinary business deductions, moving marijuana to Schedule III will remove a major obstacle for legitimate cannabis operators. Eliminating this tax burden via re-scheduling will allow licensed, regulated cannabis companies to expand their investments into the state programs and focus on public health and safety in collaboration with law enforcements efforts.

It is critical to acknowledge that use of cannabis, especially among youth, still incurs health and safety risks. Our regulatory regimes have sought to balance the mandate to create as safe a framework as possible with the reality of these risks. Juxtaposed against the dangers of the illicit market and unregulated hemp-derived cannabinoids, moreover, we believe that there is a public health and safety mandate to protect the state-regulated industry by rescheduling cannabis to Schedule III.

For these reasons, the undersigned agree that rescheduling cannabis to Schedule III is the next step in the move towards a more accountable cannabis policy. We stand ready to continue work with your Agency to ensure that the state regulatory programs continue to exist under evolving federal cannabis policies.

³ MJ Biz Daily, *Projected US cannabis market size* (April 2023), available at <https://mjbizdaily.com/us-cannabis-sales-estimates/>.

Sincerely,

Handwritten signature of Phil Weiser in blue ink.

Attorney General Phil Weiser
State of Colorado

Handwritten signature of Kwame Raoul in black ink.

Attorney General Kwame Raoul
State of Illinois

Handwritten signature of Rob Bonta in purple ink.

Attorney General Rob Bonta
State of California

Handwritten signature of Anthony Brown in black ink.

Attorney General Anthony Brown
State of Maryland

Handwritten signature of William Tong in blue ink.

Attorney General William Tong
State of Connecticut

Handwritten signature of Andrea Campbell in black ink.

Attorney General Andrea Campbell
State of Massachusetts

Handwritten signature of Kathleen Jennings in black ink.

Attorney General Kathleen Jennings
State of Delaware

Handwritten signature of Ellen F. Rosenblum in purple ink.

Attorney General Ellen F. Rosenblum
State of Oregon



Attorney General Michelle A. Henry
State of Pennsylvania



Attorney General Aaron D. Ford
State of Nevada



Attorney General Matthew J. Platkin
State of New Jersey



Attorney General Peter Neronha
State of Rhode Island