Outlook

Re: additional origins council comments on 6/4/26 CAC agenda

From cac@Cannabis <cac@cannabis.ca.gov>
Date Tue 6/2/2026 11:34 PM
To Ross Gordon <ross@originscouncil.org>
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Received, thanks Ross!

Best,

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Department of Cannabis Control
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From: Ross Gordon <ross@originscouncil.org>
Sent: Tuesday, June 2, 2026 11:19 PM
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Subject: additional origins council comments on 6/4/26 CAC agenda

Good afternoon - as we mentioned in our last email, we wanted to submit additional comment on rescheduling for the June 4 CAC agenda.

Based on analysis over the past five weeks, the attached report discusses our extremely serious concerns with the accessibility of the current DEA registration process for small and equity operators. The report is divided into three sections:

1. Why DEA registration, in its current implementation, is not likely to be accessible for small and equity state licensees.

2. A discussion of California's historical and present commitments to a cannabis market that includes broad participation from small and equity operators.

3. Policy recommendations for policymakers - including the DCC, Governor, legislature, and AG - to reaffirm California's commitment to equitable cannabis markets, mitigate the potential negative effects of the rescheduling order, and pursue positive alternatives.

The report requests that California policymakers take a leadership role in advocating for equitable markets under the federal rescheduling order, including through the following:

1. Requesting that DEA publicly clarify critical outstanding questions to ensure a transparent, accessible, and minimally discretionary process for registration and operation under Schedule III.

2. To avoid a monopoly on cannabis production by a small number of large operators, request that DEA's forthcoming quota on medical cannabis production include a quantitative cap on production per registrant.

3. Pending the release of clear and accessible DEA guidance, request that DEA pause registration processing and extend the sixty day priority registration window currently slated to close in late June.

4. Avoid state-level policy actions that would provide additional benefits to DEA registrants - such as amending state policy to enable interstate commerce - unless and until the federal framework is made clearly accessible for small and equity businesses.

5. On a state level, work to expand the state's medical cannabis program, including by expanding patient access to medical marijuana ID cards.

We appreciate the DCC providing an opportunity to discuss these issues in a public forum and are looking forward to the conversation on Thursday.

Thank you!

Rescheduling as Market Capture

A Call to Action for California Policymakers

June 2, 2026

Executive Summary

Acting Attorney General Todd Blanche's April 22 order reclassifying medical marijuana as a Schedule III drug establishes, for the first time, a legal federal framework for commercial medical cannabis. Under the April order, state-licensed medical marijuana businesses may apply for a DEA registration that could open the window to benefits including interstate and international commerce, banking, insurance, payment processing, access to capital, and more.

While many analyses have focused on potential opportunities associated with the order, this report takes a different approach, assessing the likelihood that federal rescheduling will result in effective market capture by functionally excluding small and equity cannabis operators from the DEA registration process.

Overall, we conclude that under the order's current implementation, market capture of federally-authorized activity by a small number of large operators is highly likely, imperiling years of effort to build an equitable cannabis market and threatening to create a first-mover advantage in interstate and international commerce for large operators.

This report is divided into three sections. First, we establish that DEA registration in its current form is unlikely to be accessible for small and equity cannabis operators. We draw on a number of threads to reach this conclusion, including an analysis of the DEA's broad discretionary authority, application materials, public statements, anticipated quota restrictions, and criminal liability associated with the application process.

Second, we discuss California's historical commitment to an equitable cannabis market that includes access for small and equity operators. California's existing regulatory structure has enabled thousands of small and equity operators to operate within the state-legal market. Additionally, California has earmarked millions of dollars for equity programs since 2018, and has passed legislation that specifically commits to prioritizing equity in interstate commerce.

Finally, we call on California to assert its leadership to prevent market capture and promote an equitable cannabis market under the newly-established rescheduling paradigm. **Given the impending closure of the sixty day registration window, timely action is crucial. Specifically, we recommend that California policymakers should:**

1. Request that DEA publicly clarify critical outstanding questions to ensure a transparent, accessible, and minimally discretionary process for registration and operation under Schedule III.
2. To avoid a monopoly on cannabis production by a small number of large operators, request that DEA's forthcoming quota on medical cannabis production include a quantitative cap on production per registrant.
3. Pending the release of clear and accessible DEA guidance, request that DEA pause registration processing and extend the sixty day priority registration window currently slated to close in late June.
4. Avoid state-level policy actions that would provide additional benefits to DEA registrants - such as amending state policy to enable interstate commerce - unless and until the federal framework is made clearly accessible for small and equity businesses.
5. On a state level, work to expand the state's medical cannabis program, including by expanding patient access to medical marijuana ID cards.

While many questions remain unanswered, we believe that enough is known at this point to raise the alarm on the potential for the April order to undermine longstanding efforts to build an equitable cannabis market. Additionally, we believe this lack of clarity itself can now be identified as a critical equity concern for operators seeking to make practical decisions on registration on short timelines. Consequently, we call on California policymakers - and all advocates who value access for small and equity operators - to move from analysis to advocacy, and to take immediate action to ensure that federal legality does not result in market capture by narrow interests.

Rescheduling as Market Capture: How California Policymakers Can Protect Small and Equity Cannabis Businesses under Schedule III

On April 22, Acting Attorney General Todd Blanche signed a final rule, published and effective April 28, 2026, that moves FDA-approved drugs containing marijuana and state-licensed medical marijuana from Schedule I to Schedule III of the Controlled Substances Act.

Over the past month, we have worked to analyze the rescheduling order, review DEA registration materials and public statements, and speak with regulators, attorneys, and advocates with relevant expertise.[1] In particular, we have worked to understand the potential benefits and risks associated with rescheduling and DEA registration, as well as the parameters of registration and its accessibility for state-licensed operators. *Based on this review, we believe there is a strong likelihood that the order's current implementation will exclude participation by thousands of small and equity California businesses, and therefore poses a significant risk of market capture by large operators absent policy intervention.*

In establishing a DEA registration framework for state-licensed medical marijuana businesses, the rescheduling order creates a theoretical path to federal legality for California state licensees. In turn, this legal status opens the window for a range of potential benefits for registrants, including interstate and international commerce, banking, insurance, payment processing, access to capital, and more.[2]

These benefits can only manifest, however, to the extent that DEA registration is meaningfully accessible to small and equity operators. If DEA registration is *not* accessible, the order's consequences will effectively be to establish a two-tiered framework for legality: state licensees who hold a DEA registration, and those who do not. Those licensees who do hold a DEA registration will not just disproportionately receive the benefits of federal legality, but further benefit from a first-mover advantage in interstate and international commerce, a dynamic which promises to establish a permanent advantage for these operators into the indefinite future.

This report is divided into three parts. First, we establish the reasons why DEA registration, in its current implementation, is not likely to be accessible for small and equity state licensees. Second, we discuss California's historical and present commitments to a cannabis market that includes broad participation from small and equity operators, as well as commitments to an equitable market for interstate commerce under SB 1326. Finally, we offer policy

[1] On May 12, in collaboration with our partners the National Craft Cannabis Coalition, we published a detailed analysis of the rescheduling order's impacts on small producers, available at craftcannabiscoalition.org.

[2] The extent to which each of these benefits can be associated with registration varies. Some benefits will inherently accompany registration; some will require conforming state policy to implement; some, such as IRS 280E tax relief, may be accessible for state-licensed medical marijuana operators even without registration; and others may depend on discretionary decisions made by third party actors like banks or insurers. Regardless of whether DEA registration mechanically results in access to these benefits, however, we believe it is fair to say that it at least opens the window to them.

recommendations for policymakers to reaffirm California's commitment to equitable cannabis markets, mitigate the potential negative effects of the rescheduling order, and pursue positive alternatives.

1. **DEA Registration is Not Likely to be Accessible for Small and Equity State Licensees**

On its surface, the rescheduling order can be read to indicate that the DEA will automatically approve applications for registration so long as the operator holds a state medical marijuana license. The summary of the order, for example, states that the rule *"establishes an expedited registration process under 21 CFR part 1301 for entities holding state medical marijuana licenses."*

A closer reading, however, clarifies that the DEA retains broad discretion to deny registration based on "specific public-interest concerns" or compliance with the U.N. Single Convention on Narcotic Drugs. For example, a subsequent section of the order states that:

> *"In light of that record, the Attorney General has determined that* ***incorporating*** *state licensing systems into the federal registration framework represents the most effective and efficient means of achieving the CSA's objectives with respect to medical marijuana while promoting the medical benefits of marijuana and causing the least disruption for patients and existing state systems. The rule accordingly* ***leverages*** *existing regulatory infrastructure while* ***preserving the Administrator's authority to deny or revoke registration where specific public-interest concerns arise and to ensure compliance with the Single Convention."***

Upon more detailed review, we believe there is significant reason for small and equity state licensees to fear discretionary denial and/or criminal liability as a result of submitting an application for DEA registration, for the following reasons:

a. An application to the DEA necessarily involves an admission to federal crimes.

All currently-operating state medical marijuana licensees are engaged in federally prohibited criminal activity. While the rescheduling order reclassifies the nature of this activity from Schedule I to Schedule III, the activity itself remains federally unlawful absent DEA registration. Additionally, all adult-use cannabis activity remains federally classified under Schedule 1, and is not eligible for DEA registration under the order.

The DEA's application form includes questions including *"does the firm have past experience in handling controlled substances?" "has anyone who will be involved in the ownership or operation of the firm previously manufactured, distributed, and/or dispensed any controlled substance without a DEA registration authorizing such activity?"* and *"will your firm be handling*

or dispensing recreational marijuana?" - which, if answered truthfully, constitute admission to federal crimes.

While state licensees may *hope* that such an admission would not result in near-term or future criminal liability, there is no safe harbor in law, policy, or even informal DEA statements that provide such an assurance. Additionally, if DEA chooses to deny a registration application for any reason, a licensee has flagged themselves as engaged in federally criminal activity and can reasonably fear further liability if they continue operation under their state license.

b. <u>DEA has wide discretionary authority to deny registration applications.</u>

On an initial reading, the order may appear to establish a presumption in favor of registration: it directs that the Administrator "must grant" an application "unless" doing so would be inconsistent with the public interest under the 21 U.S.C. 823 factors or with the Single Convention. That presumption is hollow as applied, however, to the extent that "public interest" is itself broadly discretionary. Under 21 U.S.C. 823(e)-(g), potential disqualifying factors include a prior conviction for controlled substances; "compliance with applicable State and local law," "maintenance of effective controls against diversion"; and "such other factors as may be relevant to and consistent with the public health and safety."

Questions included on the new application for medical marijuana dispensers provide additional context for factors the DEA may take into account in using their discretion. In addition to the questions identified in (a) above - which most or all applicants are likely to answer "yes" to - other relevant questions include:

- ➔ *Will your firm be handling or dispensing recreational marijuana?*
- ➔ *Has the applicant ever been convicted of a crime in connection with controlled substance(s) under state or federal law?*
- ➔ *For each individual you anticipate having access to controlled substances:... Has this person been the subject of one or more federal, state, territorial, or tribal disciplinary actions? Has this person been convicted of any federal, state, territorial, tribal, and local offenses related to controlled substances?*
- ➔ *Has the applicant ever surrendered (for cause) or had a state professional license or controlled substance registration revoked, suspended, restricted, denied, or placed on probation, or is any such action pending?*
- ➔ *If the applicant is a corporation (other than a corporation whose stock is owned and traded by the public), association, partnership, or pharmacy, has any officer, partner, stockholder or proprietor been convicted of a crime in connection with controlled substance(s) under state or federal law, or ever surrendered or had a federal controlled substance registration revoked, suspended, restricted or denied, or ever had a state professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation, or is any such action pending?*

To the extent that nearly all applicants will be required to answer “yes” to one or more of these questions, the DEA will effectively hold broad discretionary authority over these applications.

The DEA application further asks detailed questions regarding “each individual you anticipate having access to controlled substances,” including date of birth, social security number, and disclosures regarding prior convictions and federal, state, territorial, or tribal disciplinary actions. The scope of the DEA’s interest therefore extends to employees and all other individuals with access to cannabis, not just the owner or licensee.

c. DEA statements indicate that the agency will utilize its discretion and will not mechanically defer to state licensing.

On April 29, the Cannabis Business Times submitted questions to the DEA regarding the registration process and, after several follow-up attempts, received an email response. The DEA email indicates that prior experience handling controlled substances without a DEA registration does not constitute a “categorical barrier” to registration. However, the email reaffirms the DEA’s discretionary authority, stating that “applications are reviewed on a case-by-case basis, consistent with applicable law.” Specifically, the email states that:

> *“the application is the starting point of a broader process that includes pre-registration inspections and direct engagement with applicants. These steps allow DEA to better understand an applicant’s operations, clarify responses, and, where appropriate, identify steps needed to meet federal requirements. This process is designed to facilitate compliance with federal law while ensuring that registrants operate in a manner that protects public health and safety.”*[3]

This framing strongly suggests that DEA will not automatically defer to state licensing, and intends to utilize its discretionary authority to review each application on a case-by-case basis.

d. DEA intends to establish a quota on authorized medical cannabis production, but has not clarified the nature of this quota.

While not heavily reported, the rescheduling order clearly states that the U.N. Single Convention on Narcotic Drugs requires the U.S. to *“limit growing of the marijuana plant for that required for legitimate domestic scientific, medical, and industrial needs, and for legitimate exports”* and further to *“establish the upper limit of marijuana that each grower may grow in a calendar year, as well as the total amount of marijuana that can be grown in the United States annually for*

[3] DEA says red-flag question on Schedule III application 'not intended … as a categorical barrier.' (2026, May 15). *Cannabis Business Times.* https://www.cannabisbusinesstimes.com/top-stories/news/15825312/dea-says-redflag-question-on-schedule-iii-application-not-intended-as-a-categorical-barrier

legitimate needs." Later, the order reaffirms that *"state-licensed marijuana will be required to meet the quota requirements of the Single Convention."*

The order therefore suggests that there will be a quota on the cumulative (and possibly per-operator) cannabis authorized for production under a DEA registration. However, the order does not clarify what this quota will be or how it will be enforced, and the DEA has not released any subsequent statements regarding the nature of a quota.

Upon the implementation of a quota, a DEA producer registration could be denied solely on the basis of the quota already having been met. To the extent that a small number of large producers submit early applications to the DEA, it's possible that this quota could be reached quickly, thereby disqualifying any other applicants from registration.

e. <u>DEA has not clarified operational requirements or standards for registrants.</u>

The April order states clearly that *"a state license shall constitute conclusive evidence that the applicant is authorized under state law to engage in the activity for which registration is sought"* and further states that state regulatory requirements for security, packaging, and labeling will be sufficient to meet federal standards. The order also states that the DEA will attempt to rely on state recordkeeping requirements *"to the maximum extent possible*," but does not clearly state what this entails, and what additional recordkeeping requirements may be required.

Beyond these areas, however, the rescheduling order does not clearly state what additional operational standards will be applied to registrants, including:

- ➔ Whether co-located adult-use and medicinal activities will be tolerated.
- ➔ If co-location is tolerated, what requirements will be imposed for physical or administrative segregation of adult-use and medicinal activities.
- ➔ How the order's purchase and resale mechanism, which requires the DEA to purchase and take constructive possession of all produced cannabis, will be implemented.
- ➔ The nature of the administrative fee associated with the purchase and resale mechanism.
- ➔ To what extent state recordkeeping requirements will be adequate for DEA purposes, and what additional recordkeeping DEA may require.
- ➔ Any other operational requirements that will be required by DEA.

Depending on what operational standards the DEA imposes, it's possible there there will be significant additional costs that make operation financially non-viable for small and equity operators.

f. <u>The DEA's sixty day priority application window forecloses opportunities to seek clarification prior to filing an application.</u>

The rescheduling order establishes priority review for applications submitted within 60 days of the order. These applications are required to be processed within six months of submission, and are provided protection to "lawfully operate under their state-issued licenses during the pendency of review." While DEA has not explicitly indicated when the 60 day period begins or ends, there is broad agreement that the window will close no earlier than June 22 and no later than June 27.

When combined with the lack of clarity on how the DEA intends to utilize its discretion, this limited timeline places small and equity licenses in an extremely difficult situation. Operators must make a decision to apply within a very limited period of time without adequate information on which to make an informed decision. Additionally, there is no clarification from the DEA regarding the consequences of not applying within the 60 day window provided. While not stated explicitly, it's possible that applications submitted after the close of the window would subsequently be denied on the grounds of prior operation without the required DEA registration.

Additionally, while not confirmed officially, we are aware of anecdotal claims that the DEA is inundated with applications, does not have adequate personnel to process these applications, and - despite the six month approval period established by the rescheduling order - may need years to work through submissions made within the sixty day window. If these claims are accurate, it further indicates that operators who do not submit a registration application by the close of the window may be effectively locked out of submitting a registration application in the future, as operators would lack legal protection to continue operation pending review of the registration application.

g. <u>Small and equity businesses need assurances in relation to DEA use of discretionary authority.</u>

Since 1973, the DEA has been the primary federal agency tasked with executing the War on Drugs. Given this context, small and equity operators will have significant concerns regarding a DEA-administered system in any circumstance; much less the current circumstance, where the DEA has offered no public clarification regarding how it intends to utilize its discretion.

In California, Business and Professions Code 26240(d) defines equity operators in terms of *"individuals and communities in California's cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization."* Many operators will be required to answer "yes" to the question on the DEA application which asks whether "the applicant has ever been convicted of a crime in connection with controlled substances." Even small and equity operators without a prior conviction for controlled substances have highly reasonable grounds to fear that DEA may use its discretionary authority to deny their application for other reasons.

Additionally, small operators are inherently less well-equipped to navigate the unclear federal registration process in comparison to larger operators. Smaller operators cannot easily afford extensive legal advice and may not be positioned to comply with yet-unspecified DEA operational or administrative requirements. Conversely, early reports indicate that a number of large and multi-state operators have moved quickly to submit registration applications to the DEA. Such large operators are much better positioned to tolerate and mitigate the risks associated with a DEA application.

2. California's Commitment to An Equitable Cannabis Framework

Over the past decade, California has established a commitment to an equitable cannabis regulatory framework that includes access for small and equity operators. Important commitments include the following:

- ➔ The Medical Marijuana Regulation and Safety Act, passed in 2015, placed no limit on the number of licenses that could be issued statewide, and established a tiered fee structure that assesses lower fees on smaller operators.

- ➔ Proposition 64 mirrored this structure, while adding additional purpose and intent language which promises that the licensed cannabis industry "will be built around small and medium sized businesses" while "imposing strict anti-monopoly restrictions."

- ➔ SB 1294, passed by the California legislature in 2018, established a statewide equity program intended to support individuals and communities "negatively or disproportionately impacted by cannabis criminalization." In 2019, the legislature approved additional legislation, SB 595, which established a program to waive or defer DCC licensing fees for qualified equity operators;[4] and in 2022, the legislature approved a "vendor compensation" program which effectively reduced the cannabis excise tax paid by equity-qualified cannabis retailers from 15% to 12%.[5] As of 2025, more than $120 million has been dispersed to equity operators through the state's equity program program.[6] Further, the Department of Cannabis Control has appointed Deputy Director of Equity & Inclusion to their executive-level leadership, and heavily emphasized the importance of equity within their department-wide strategic plan.[7]

- ➔ SB 1326, passed by the California legislature in 2022, provides conditional authorization for the Governor to enter into interstate cannabis commerce compacts with other states if and when this activity is tolerated by the federal government. SB 1326 emphasizes the

[4] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB595
[5] https://cdtfa.ca.gov/formspubs/L884.pdf
[6] https://business.ca.gov/california-awards-18-4-million-to-support-access-to-the-golden-states-cannabis-industry/
[7] https://cdn.cannabis.ca.gov/wp-content/uploads/sites/2/2023/08/dcc-strategic-plan.pdf

importance of equity considerations specifically in the context of interstate commerce, and requires that *"an [interstate commerce] agreement shall include provisions determined by the Governor to promote the inclusion and support of individuals and communities in the cannabis industry who are linked to populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization."*

In light of these long-standing commitments, California should continue to assert its leadership by taking appropriate action in response to the exclusionary nature of the federal rescheduling order. Below, we make specific policy recommendations to accomplish this goal.

3. Policy Recommendations to Respond to the Federal Rescheduling Order

a. California should lead advocacy for an equitable nationwide cannabis framework.

As the nation's largest and most diverse legal cannabis industry, and a historical leader in the medical cannabis movement dating back to Proposition 215, we call on California policymakers - including the legislature, Governor, Attorney General, and Congressional delegation - to take the lead in calling for an equitable, nationwide framework that includes access and opportunity for small and equity cannabis operators. At a minimum, California leaders should:

- ➔ Clearly and publicly identify the challenges associated with the April rescheduling order framework, including the significant risk of market capture associated with the order.
- ➔ Affirm the importance of an equitable market that provides fair access to small businesses under Schedule III, and the critical role of small and equity operators in providing access to diverse medical cannabis products.
- ➔ Advocate for Congressional action to deschedule cannabis under an equitable federal framework where DEA does not serve as lead regulator.
- ➔ Coordinate with other state governments and Congressional delegations to advance these objectives.

b. California should request clear commitments from DEA regarding their registration process and operational standards to ensure a transparent, accessible, and minimally discretionary process for registration.

California policymakers - in coordination with other states and Congressional delegations to the extent possible - should urgently request a clear and timely statement from DEA regarding the registration process and operational requirements. Policymakers should request the following:

- ➔ A clear statement that the DEA will presumptively approve registration applications by state-licensed medical marijuana businesses. If there are factors that may result in the denial of a DEA registration, these factors should be expressly and concretely enumerated and not broadly discretionary.

- ➔ Clarity that the DEA will not deny a registration on the basis of prior handling of controlled substances without a DEA registration.
- ➔ Clarity that the DEA will not deny a registration based on a prior conviction for a controlled substance for either owners or employees. If the DEA intends to deny registration based on some subset of more severe prior convictions - such as California's standards, which allow the DCC to deny a state license based on a violent felony or sales to minors - this subset should be clearly enumerated and applicable only to severe convictions.
- ➔ Clarity that concurrent adult-use cannabis activity from a state-licensed medical cannabis licensee will not result in criminal liability or denial of a registration.
- ➔ Clarity regarding DEA expectations for physical and/or administrative segregation of adult-use and medicinal cannabis.
- ➔ Clarity that a prior disciplinary action against a license by a state, local, or tribal government will not result in a registration denial.
- ➔ Clarity that the DEA will not initiate enforcement action on a state-licensed medical cannabis business based on the denial of a registration.
- ➔ Clarity regarding whether and how the DEA will impose a quota on medical cannabis production.
- ➔ Clarity regarding how the purchase and resale mechanism outlined in the order will be operationalized.
- ➔ A list of any and all operational requirements and minimum standards the DEA will impose on registered operators.

c. <u>California should request that any DEA quota on medical cannabis production include a quantitative cap on production per registrant.</u>

The nature of a DEA production quota will play a major role in shaping the structure of the federally-legal medical cannabis market. Studies have estimated that "a few dozen average-sized (450-acre) farms" would be adequate to satisfy all national demand for cannabis, inclusive of both medical and adult-use demand.[8] For solely medical demand, this quantity may be much lower. It is therefore highly possible that, under a federal production quota for medical marijuana, a handful of very large producers could fill the entirety of the quota, resulting in the denial of any subsequent DEA registration for production.

The rescheduling order suggests that, in addition to a nationwide production quota, the DEA may consider prescribing *"the upper limit of marijuana that each grower may grow in a calendar year."* Such a limit on per-registrant production is a fundamental necessity in order for small producers to have meaningful access to DEA registration under a quota system.

A quantitative limit on per-farm production should be informed by the cumulative nationwide cap on production, a number which has yet to be determined. Regardless of the nationwide limit,

[8] https://www.ncbi.nlm.nih.gov/books/NBK609482/

however, we recommend that a per-farm cap is set at no more than 2,000 pounds annually, a quantity approximately equivalent to one acre of outdoor production. Lower limits should also be considered depending on the DEA's determination regarding a nationwide production quota.

Notably, the DEA's determinations regarding a quota will not meaningfully impact small producer accessibility unless the nature of the DEA's discretion, as discussed in (b) above, is sufficiently clarified.

d. Pending the release of clear and accessible DEA guidance, California should advocate for a pause in registration processing and an extension of the sixty day priority registration window.

The current sixty day priority application window is not sufficient for federal agencies - including the DEA, IRS, and FDA - to offer clear guidance to applicants, nor is it sufficient for state governments to assess how to adapt to the new federal framework, or for state-licensed operators to make an educated decision on whether and how to engage in the registration process. As discussed further below, fundamental aspects of a transparent registration process remain unclear; and given the impending sixty day deadline, it appears increasingly unlikely that federal agencies will offer adequate clarity in time for stakeholders to make informed decisions.

The end of the sixty day priority application window also coincides with the opening of hearings for the broader administrative rescheduling process, which are scheduled to take place from June 29-July 15.[9] This process could meaningfully alter or expand the currently-effective order and could become legally effective by the end of 2026. Additionally, the April 22 rescheduling order has been challenged in court and could be overturned, enjoined, or altered as the result of this litigation.[10] Federal rescheduling is therefore a moving target which could change significantly, or even be rescinded entirely, over the coming months. A pause in registration processing and in the applicability of the sixty day prioritization window are practical necessities to ensure a rollout which can provide necessary assurances for all stakeholders.

e. Unless and until the federal framework is made clearly accessible for small and equity businesses, California should avoid actions - such as access to interstate commerce - that would provide additional benefits to DEA registrants.

For as long as the federal registration framework remains either unclear or inaccessible for small and equity operators, California should avoid enacting policies that privilege

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9 https://www.federalregister.gov/documents/2026/04/28/2026-08177/schedules-of-controlled-substances-rescheduling-of-marijuana

10 https://www.marijuanamoment.net/marijuana-opponents-file-lawsuit-to-block-trump-administrations-federal-rescheduling-move/

DEA-registered operators. Interstate commerce provides the clearest example: while the rescheduling order appears to open the door to legal interstate commerce between DEA registrants, this theoretical potential is also constricted by state laws that prohibit state licensees from engaging in out-of-state commerce.

While California could potentially act to change state policy to accommodate interstate commerce for DEA registrants - for example, by pursuing interstate compacts under the SB 1326 framework - such an action would effectively accelerate market capture by large actors as long as DEA registration remains inaccessible to small and equity operators. California should therefore prioritize advocacy for an accessible and equitable federal framework *prior to* engaging in efforts to promote California businesses within that framework.

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f. Independent from the DEA registration process or commercial considerations, California should work to expand its state-level medical cannabis program, including working to expand patient access to medical marijuana ID cards.

While the rescheduling order is highly uncertain in its application to state-licensed businesses, rescheduling medical marijuana to Schedule III offers potentially significant benefits for medical cannabis patients. While cautioning that further work is necessary, Americans for Safe Access has suggested that benefits for patients under the rescheduling order, once operationalized across federal policy, may include:

- ➔ *"Rights and protections under the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act;*
- ➔ *Protections against being denied housing, employment, healthcare, or reasonable accommodation solely because of patient status;*
- ➔ *Protections against being treated as criminals for possessing state-authorized medical cannabis;*
- ➔ *Protections for parents and caregivers whose medical cannabis status has been used against them;*
- ➔ *Protections for patients in federally subsidized housing, healthcare settings, federal workplaces, veterans' care, and other federal systems."*[11]

An expansion of California's medical cannabis program can therefore provide significant benefits regardless of how DEA implements its registration program. In recent years, there has been a dramatic decline in the number of patients who hold medical marijuana ID cards in California, and CDPH data indicates that just 2,232 ID cards were issued statewide in FY 2025-2026.[12] Identifying and addressing barriers to patient access this program can help to enable patients to benefit from the protections available under Schedule III.

[11] https://www.safeaccessnow.org/is_cannabis_legal_now#gsc.tab=0
[12] https://www.cdph.ca.gov/Programs/CHSI/Pages/MMICP-Data-and-Statistics.aspx

Conclusion: A Call to Action to Defend Equitable Cannabis Markets

The rescheduling of medical marijuana to Schedule III is a historic shift in federal drug policy, formally acknowledging the medical value of cannabis for the first time and opening the door to a federally-legal commercial cannabis market. As discussed in this report, however, the current implementation of the rescheduling order - marked by a lack of clarity in crucial issues, broad DEA discretion, unresolved operational requirements, an opaque quota system, and a compressed application timeline - creates conditions under which the benefits of federal legality are likely to flow to a narrow set of large, well-resourced operators, while thousands of small and equity businesses are left behind.

California is uniquely impacted by this moment. Over the past decade, California has built the nation's largest and most diverse legal cannabis industry, licensing thousands of businesses and devoting over $100 million in financial backing to equity programs. The current approach to rescheduling, if implemented without intervention, threatens to fundamentally undermine these commitments by establishing a parallel federal framework that California's small and equity operators cannot meaningfully access.

The timeline for action is short: the sixty-day priority application window will close by late June, administrative rescheduling hearings are scheduled to begin days later, and litigation challenging the order is already underway. Each of these developments will shape the federal cannabis landscape in ways that may be difficult to reverse, and each is proceeding without adequate input on how rescheduling will affect the structure of legal cannabis markets.

Under these circumstances, we call on California's legislature, Governor, Attorney General, and Congressional delegation to act swiftly to elevate these issues and defend California’s historic commitments to an equitable cannabis market. The recommendations in this report offer a path forward: to press for a registration pause; advocate for transparency from the DEA; and re-assert the importance of a federal cannabis market that provides access for small and equity producers. California has long led the nation on cannabis policy, and now has an opportunity to lead again to work towards a fair, accessible, and functional federal framework for medical cannabis.