Significant Increase in Production of Cannabis and Psychedelics for Research Proposed by the DEA for 2022 – What You Need to Know Now

Cannabis Business Legal News

By Darren Grady on October 21, 2021

On Monday October 18, 2021, the Drug Enforcement Administration (DEA) issued a notice through the Federal Register that proposed a large increase in production quotas for a number of controlled substances including cannabis and psilocybin (the active compound in so called "magic mushrooms"). Cannabis and psilocybin are currently categorized as Schedule I drugs in the Controlled Substances Act (CSA), meaning that pursuant to the CSA, these are drugs with no currently accepted medical use and a high potential for abuse. The notice issue by the DEA, however, signals a potential change on the horizon for how the federal government treats these drugs, particularly in the area of research.

For many years now, the medical benefits of cannabis have been gaining larger acceptance. Currently, a total of 36 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands have approved medical cannabis programs. In recent years, there has also been a growing amount of research exploring psychedelics and other controlled substances for their potential medicinal use. In 2018, researchers at Johns Hopkins University recommended the reclassification of psilocybin to Schedule IV in the CSA (reflecting a drug with a low potential for abuse and a currently accepted medical use). Psilocybin is also beginning to see regional and municipal decriminalization efforts. Denver, Oakland, Santa Cruz, Washington DC and some other cities have decriminalized psilocybin. In November of 2020, Oregon decriminalized psilocybin and legalized it for therapeutic use. Startup companies in this area are starting to form and it is clear that there is a rapidly growing amount of interest in the use of LSD, psilocybin, MDMA, ayahuasca, dimethyltryptamine (DMT) to treat a number of psychiatric and psychological conditions, including major depressive disorder and PTSD.

The DEA's notice reflects this growing interest and opens the door for easier access to, and production of, certain controlled substances for research. With the notice, the DEA is proposing "significant increases" in the manufacturing of

psilocybin, psilocin, "marihuana and marihuana extract." These proposed increases are directly related to increased interest by DEA registrants in the use of hallucinogenic controlled substances for research and clinical trial purposes. The DEA even went so far as to comment that it "firmly believes" in support for research of these substances and that the increases reflect the need to fulfill research and development requirements for the production of new products as critical steps toward potential Food and Drug Administration approval. This position is particularly progressive for the DEA and shows a growing acceptance of the medicinal potential for psychedelics and cannabis.

So what does this mean for companies interested in conducting this research? The public will have 30 days to submit comment on the new proposed production quotas for these substances after the notice is formally published on October 21, 2021. Individuals and companies interested in applying for licensure to research these controlled substances should seek the advice of counsel who have experience in working with the DEA and state agencies to get clients properly approved and licensed as researchers or analytical labs. Attorneys at Amundsen Davis recently assisted a client in the successful application to become an analytical lab for psilocybin. We are proud to be on the forefront of helping clients in this groundbreaking field.