

OCTOBER 2025

In response to a journalist's inquiry, on August 11, 2025, [President Trump said](#) that his Administration was "looking at" potentially changing marijuana's classification on the Controlled Substances Act (CSA) and would make a determination in the "next few weeks." If marijuana is moved to Schedule III — as is largely currently anticipated — this would acknowledge marijuana's accepted medical use and relatively low risk, and result in changes to how businesses are taxed.

However, as long as marijuana remains on the CSA, arrests for marijuana and the barriers those arrests create to accessing food, housing, employment, and more will continue. Only descheduling marijuana — removing it from the CSA entirely — would decriminalize marijuana possession and personal use at the federal level and provide a foundation for federal legalization and regulation.

BACKGROUND

Since Congress enacted the Controlled Substances Act (CSA) in 1970, marijuana has been classified in Schedule I—the category reserved for substances deemed to have no currently accepted medical use and a high potential for abuse. Even as 39 states have authorized medical marijuana and 24 have legalized adult use, its placement on the CSA has meant that people can still be prosecuted for marijuana under federal law.

The Trump Administration's potential action on rescheduling follows a process that began under President Biden, who in October 2022 directed federal agencies to [expeditiously review marijuana's status](#) under the CSA.

After conducting its scientific and medical evaluation, [HHS/FDA recommended](#) in August 2023 that marijuana be moved from Schedule I to Schedule III. Biden's DOJ then [issued a proposed rule](#) in May 2024, triggering a 62-day public comment period. A record number of [more than 43,000 public comments](#) were submitted, [nearly 70% of which called for descheduling](#).

The proposed rule also provided stakeholders an opportunity to request a public hearing. In August 2024, the [DEA issued a hearing notice](#) on the proposed rule and in October 2024, the [DEA selected](#) an administrative law judge (ALJ) to preside over the hearing and selected 25 witnesses to participate.

During a preliminary hearing in December 2024, the [ALJ set hearing proceedings](#) for January 2025. However, following legal challenges alleging improper communications and concerns about witness selection, the [ALJ canceled the scheduled hearing](#) and stayed the matter to allow an interlocutory appeal to the DEA Administrator, ordering 90-day status updates.

Updates in [April](#) and [July](#) reported no change — the appeal remained pending with no briefing schedule set, and effective August 1, 2025, the [presiding ALJ retired](#), leaving the DEA without an ALJ to hear this case or other pending matters.

As of October 1, 2025, no final rule has been issued and marijuana remains a Schedule I drug.

President Trump's August 2025 comments that his administration is "looking at" marijuana's reclassification are his first on the issue since returning to office. Late in the 2024 presidential campaign, [President Trump posted](#) the following message on his social media platform, Truth Social:

"As I have previously stated, I believe it is time to end needless arrests and incarcerations of adults for small amounts of marijuana for personal use. We must also implement smart regulations, while providing access for adults, to safe, tested product.

As a Floridian, I will be voting YES on Amendment 3 this November. As President, we will continue to focus on research to unlock the medical uses of marijuana to a Schedule 3 drug, and work with Congress to pass common sense laws, including safe banking for state authorized companies, and supporting states rights to pass marijuana laws, like in Florida, that work so well for their citizens."

WHAT WOULD CHANGE UNDER SCHEDULE III?

Rescheduling marijuana to Schedule III would mean that according to the federal government, marijuana has:

- accepted medical use;
- a lower potential for abuse than Schedule I or II substances; and
- a moderate to low risk of physical dependence.

Rescheduling also has consequences outside of the CSA:

- It allows state-legal marijuana businesses to make standard business tax deductions, lifting longstanding restrictions under IRS Code Section 280E.
- It would also mean that the Office of National Drug Control Policy (ONDCP) would no longer be required to oppose the legalization of marijuana or be prohibited from studying the legalization of marijuana. This is because current provisions of the CSA, require ONDCP to oppose and prohibit studying the legalization of any Schedule I substance.

WHAT DOESN'T CHANGE UNDER SCHEDULE III?

- Criminal penalties for marijuana-related conduct would remain in place;
- Individuals with past convictions would still have criminal records; and
- Due to these criminal records, individuals could still face barriers to employment, public benefits, housing, or immigration protections.

State marijuana programs—and the state-authorized activities of marijuana patients, marijuana consumers, marijuana businesses, and workers in the marijuana industry— would remain illegal under federal law. Anyone possessing, cultivating, or distributing marijuana in violation of the CSA would remain subject to federal arrest and prosecution.

Because marijuana remains federally illegal, financial institutions that serve cannabis businesses would continue to face the risk of federal penalties. This persistent legal uncertainty will continue to undermine efforts to build a fairer, more inclusive industry, especially for small and minority-owned businesses.

WHAT MUST CONGRESS DO?

To ensure meaningful marijuana reform, **Congress must act** by:

- **Descheduling marijuana entirely** to end federal criminalization;
- **Providing relief for individuals with prior marijuana convictions;**
- **Reinvesting in communities** disproportionately targeted by marijuana enforcement; and
- **Establishing a national regulatory framework** that promotes equity, public health, safety, and fair competition.

Bills such as the [Marijuana Opportunity Reinvestment and Expungement \(MORE\) Act](#) in the House and the [Cannabis Administration and Opportunity Act \(CAOA\)](#) each contain these crucial features that are needed in federal marijuana legislation.

FREQUENTLY ASKED QUESTIONS

Does rescheduling marijuana to Schedule III federally legalize or decriminalize marijuana?

No. Existing state marijuana programs (both medical and adult-use) will remain completely illegal under federal law, and anyone possessing marijuana in violation of the CSA would remain subject to arrest under federal law regardless of state law. Nearly all federal marijuana penalties in the CSA are tied to the quantity of marijuana rather than what schedule it is placed in.

If marijuana is moved to schedule III does this mean the federal government has legalized medical marijuana?

No. Scheduling and FDA approval are two separate processes.

The term “currently accepted medical use” is used in the scheduling process to describe one of the findings required to make a scheduling recommendation. It is not the same as FDA approval. To date, the FDA has not approved a drug product containing botanical marijuana for marketing in the United States.

If marijuana is moved to Schedule III, only products that are FDA approved would be considered legal under federal law and patients using those products would be required to have a prescription.

Since 2014, Congress has prohibited the Department of Justice from federally prosecuting conduct in compliance with state medical marijuana laws. Notably, this protection exists even while marijuana is in Schedule I and would not be enhanced through rescheduling.

Would rescheduling make it easier to conduct research on marijuana?

In 2022, Congress passed the Medical Marijuana and Cannabidiol Research Expansion Act which amended the CSA for medical research involving marijuana or CBD to lessen the stringent controls typically applicable to Schedule I substances. According to a September 2024 [Congressional Research Service \(CRS\) report](#), the act created separate requirements for marijuana researchers and manufacturers to expedite registration with the DEA, and “these separate requirements would not be affected by rescheduling without additional congressional action.”

What is the difference between Schedule I and Schedule III?

Schedule I is the most restrictive placement for substances under the CSA. The federal government considers Schedule I substances to have no accepted medical use and a high potential for abuse. Schedule III substances are considered to have a currently accepted medical use and a moderate-to-low potential for abuse. Schedule I substances are completely illegal except for federally approved research while Schedule III substances are also legal for certain medical uses if approved by the FDA. Only entities registered with the DEA are lawfully able to work with controlled substances; this is true regardless of where marijuana is scheduled on the CSA.

What is the difference between “descheduling” and “rescheduling?”

Descheduling is the removal of marijuana from the CSA, while rescheduling moves marijuana from one schedule to another within the CSA. Descheduling decriminalizes most marijuana conduct at the federal level, including personal use and possession. Rescheduling maintains nearly all existing federal criminal penalties for marijuana, including penalties for personal use and possession. This would be the case even if marijuana were placed in the least restrictive schedule, Schedule V.

If marijuana is rescheduled, will anyone currently incarcerated for marijuana charges be released?

Nobody currently incarcerated for marijuana at the federal level would be released as a result of rescheduling alone. In fact, descheduling alone would also not accomplish this. President Trump could and should issue an order of clemency for those currently incarcerated to be released.

If federal marijuana prosecutions continued under Schedule III, would there be any reduction in penalties?

Not in most instances. Because most marijuana penalties in the CSA are specific to marijuana itself rather than dependent on a particular schedule, rescheduling does not alter most of the penalties for marijuana. There would be a slight reduction in penalties for prosecutions of violations of between 50 to 99 plants but it would remain a federal felony offense. The current criminal tax penalty would no longer be applicable, but this is a rarely prosecuted offense. Rescheduling marijuana from Schedule I to Schedule III would not alter the mandatory minimums applicable to federal marijuana offenses.

Would rescheduling to Schedule III expunge previous marijuana convictions?

No, rescheduling would not expunge any previous marijuana convictions. Notably, neither of President Biden's pardon orders for federal simple marijuana offenses provide for expungement, meaning those pardoned are still subject to collateral consequences such as denial of public benefits and barriers to employment.

Would rescheduling marijuana to Schedule III restore public benefits to those who have lost them due to a previous marijuana conviction?

Rescheduling would not restore eligibility for public benefits such as housing and nutritional assistance. However, various federal agencies can issue guidance memos and use discretionary enforcement to limit denials of public benefits for both federal and state marijuana convictions even while marijuana remains on the CSA. In fact, the Trump Administration could begin to do this work even with marijuana in Schedule I, just as the Treasury Department has issued policy guidance allowing for limited banking services to marijuana businesses.

Would rescheduling help prevent the deportation of noncitizens who have marijuana arrests or who merely work for a state-licensed marijuana business?

No, rescheduling would not change any of the harsh marijuana-related penalties for noncitizens. As long as marijuana remains in the CSA, noncitizens can still face detention, deportation, ineligibility for citizenship or residency, and bars to asylum.

What would the next steps in the process be if the trump administration moves forward with rescheduling marijuana to Schedule III?

There is a possibility that the Trump Administration may disagree with the existing proposed rule — however, if the Trump administration supports the proposed rule and proceeds, the DOJ/DEA may publish a Final Rule in the Federal Register formally moving marijuana to Schedule III. The rule typically undergoes White House review via the Office of Information and Regulatory Affairs and is transmitted to Congress under the Congressional Review Act. After publication, there is a 30-day window for court challenges in a federal appeals court. Once effective, Schedule III controls apply but CSA criminal prohibitions and FDA requirements still stand—so state-legal markets are not federally legalized. The DEA may also issue additional marijuana-specific regulations such as requiring a quota on manufacturing cannabis to comply with U.S. treaty obligations. However, it remains uncertain whether the Trump Administration will follow this standard process or how it intends to implement a final rule.

What other actions can the trump administration take to end criminalization and its harms?

The Trump Administration can and should [use the full extent of its executive authority](#) to advance marijuana policy reform that benefits all those living in America. This should include supporting decriminalization and ending the harms of criminalization, restoring eligibility for public benefits, protecting public health, and promoting fairness in economic opportunities. Each agency under the Trump Administration should review its marijuana-related policies and take action to limit these harms to the greatest extent possible.