



Important Update: Medical Cannabis Rescheduling Final Order

May 4, 2026

The cannabis landscape is evolving.

As many of you are aware, the Department of Justice and Drug Enforcement Administration (DOJ/DEA) recently issued an order rescheduling cannabis and cannabis products subject to a state-issued license to manufacture, process and/or dispense for medical purposes from Schedule I to Schedule III (“Final Order”). Click [here](#) to read the Maryland Cannabis Administration’s (MCA) previous statement on the [FINAL ORDER](#).

The MCA is working to clarify many aspects of the rescheduling Final Order and remains committed to providing licensees and industry stakeholders with timely and accurate information. We encourage licensees and industry stakeholders to submit inquiries to rescheduling.mca@maryland.gov or complete a [survey](#) to share pertinent information regarding the recent changes. MCA plans to respond to these questions in an upcoming town hall.

As a reminder, Maryland law remains fully operative and unchanged, and state licensing and enforcement continues as enacted by Maryland General Assembly.

Below are some important points on the cannabis rescheduling FINAL ORDER¹. Click [here](#) to read the full factsheet.

- This order moves only medical marijuana – in the form of Federal Drug Administration (FDA) approved marijuana drugs and state-licensed medical marijuana from Schedule I (which is federally illegal) to Schedule III (which recognizes and allows for medical use). The Final Order creates federal legality for medical marijuana products from U.S. Drug Enforcement Administration (DEA) approved licensees. The order does not legalize marijuana federally.
- Unlicensed bulk marijuana and marijuana extract, and delta-9 THC material used to make FDA approved drugs will remain in Schedule I.
- The Final Order does not apply to synthetic marijuana, which is not part of the CSA’s definition of marijuana.
- The Final Order does not affect the status of hemp because hemp is excluded from the federal definition of marijuana. Hemp is not scheduled. It should be noted that the federal definition of hemp is set to change in November and will be limited to industrial products and low THC products with <0.4mg total THC per container.

Who is most affected by this final order?

Businesses who are manufacturing, distributing, and dispensing state-licensed medical marijuana in states.

- Medical marijuana products and related business operations are no longer subject to the federal tax provision 280E, which has prohibited businesses from deducting common business expenses and operating costs if they are involved in trafficking a Schedule I or II controlled substance. The order indicates that the 280E tax burden is removed for state medical marijuana licensed businesses, regardless of whether they pursue a DEA license.
- The order encouraged the Secretary of Treasury to consider providing retrospective relief from 280E liability for taxable years in which the licensee held a state medical marijuana license.
- The U.S. Department of Treasury has already provided [notice](#) that they will be issuing forthcoming tax guidance related to the final order.
- The Final Order makes it clear that recreational marijuana is still Schedule I. This means those products and related business operations would not be eligible for full business tax deductions – 280E would still apply.

Researchers trying to research marijuana.

- Researchers will no longer need a Schedule I license from the DEA to do research with marijuana. They will still need to get a Schedule III license – which is a simpler process and lowers some of the storage and reporting requirements.

What does not change?

- Recreational marijuana and marijuana obtained outside of a DEA-registered, state regulated medical marijuana marketplace remains Schedule I. There will be an administrative hearing process beginning June 29 to consider broader rescheduling of non-medical marijuana from Schedule I to III
- Application of the US Federal Food, Drug, and Cosmetic Act. This order does not change the applicability of the U.S. The Federal Food, Drug, and Cosmetic Act and the FDA has not established a safety standard for cannabinoids in food outside of approved drugs and a small number of food products like hemp seed, that have a GRAS designation.
- Criminal penalties for marijuana under federal law remain unchanged. This does not change the criminal penalties for marijuana under federal law because those are set separately from the federal schedule. It also does not expunge federal criminal records related to marijuana.

¹ *Cannabis Regulators Association (CANNRA), Overview of DOJ Final Order on Marijuana Rescheduling, April 2026*

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