

# Bridging the Gap: Cannabis Rescheduling to Align Policy with Research

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In a much-anticipated move, [sources](#) recently reported that the Drug Enforcement Administration (“DEA”) will recommend rescheduling cannabis from a Schedule I substance to a Schedule III substance under the federal Controlled Substances Act.[1] This recommendation will likely be based on the Health and Human Services [Report](#), which evaluated scientific evidence of cannabis use for medical purposes and determined that cannabis does have accepted medical value with a higher safety profile than Schedule II medications.[2] The DEA’s recommendation is also in line with President Biden’s directive for the Federal government to take steps to review how cannabis is presently scheduled under federal law.[3] In response to the DEA recommendation, the White House Office of Management and Budget will review the recommendation. If approved, there will be a public hearing allowing experts and the public to weigh in on rescheduling. Absent any major meritorious objections, cannabis will then be rescheduled from a Schedule I substance to a Schedule III substance.

While the rescheduling will *not* result in the legalization of recreational use of cannabis on the Federal level or result in many state cannabis laws complying with federal law, the rescheduling move will have significant legal ramifications for the cannabis industry as a whole and in terms of criminal sentencing for possession. For example, rescheduling will have an immediate impact on cannabis operator profitability. IRS Code 280E, which prevents cannabis operators from deducting normal business expenses, will no longer apply to cannabis businesses since this prohibition only applies to Schedule I and II substances. Cannabis operators should consider the monetary impact this will have on their operations and take steps to prepare for this major, albeit profitable change. Further, THC-based medications would likely have a legal pathway for approval from the U.S. Food and Drug Administration. If approved, cannabis-based medications could be prescribed by a doctor and covered by insurance. These medications would potentially be available, legally, throughout the United States – even in states with no medical cannabis legalization. Lastly, the rescheduling would remove significant barriers to cannabis research. Currently, cannabis researchers are subject to stringent regulatory control and quota limitations. With the rescheduling change, cannabis research will have the ability to expand medical and consumer research with less limitation by the Federal government.

## FOOTNOTES

[1] For a more information on this subject, please see [this prior article](#).

[2] For more information on this report, please see [this prior article](#).

[3] For more information on this directive, please [see this prior article](#).

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