

Rescheduling of Medical Marijuana from Schedule I to Schedule III

Summary of Final Order — Effective April 22, 2026. [Commentary in blue.](#)

What the order does. The Acting Attorney General moves medical marijuana from Schedule I to Schedule III of the Controlled Substances Act, but only in two narrow categories: (1) FDA-approved drug products containing marijuana, and (2) marijuana subject to a qualifying state-issued medical marijuana license.

State-Licensed Medical Marijuana Companies

- **Expedited DEA registration.** A new pathway under 21 CFR Part 1301 creates an expedited review process for entities holding a state medical marijuana license. The state license is conclusive evidence of state-law authorization, and DEA must grant registration unless inconsistent with the public interest (21 U.S.C. § 823 factors) or the Single Convention. [It is unclear to CRB Monitor whether every state regime would qualify as having “robust protections against diversion, requirements for record-keeping and reporting, and safety and inspection measures”.](#) It is well known that not every state marijuana program is created equal. [We are curious to see if the DEA comes up with different treatment for each state.](#)
- **Operate during pendency.** Applicants who file within 60 days of Federal Register publication may continue manufacturing, distributing, and/or dispensing for medical purposes under their state license while their DEA application is pending. DEA will aim to process such applications within six months. [It will be a major feat for the DEA to process applications from all 18,444 Active Medical licenses in six months.](#)
- **Three registration types.** Manufacturer (cultivate, produce, process, package, label, transfer to registered distributors or manufacturers), distributor (receive from manufacturers, transfer to dispensers), and dispenser (dispense to patients authorized under state law). [What about other license types not covered here?](#)
- **State law governs operations.** Registrants are exempt from federal labeling, packaging, sealing, disposal, and physical-security rules so long as they comply with state law (and include any warning required by 21 U.S.C. 825(c)). State-law patient certifications are sufficient for dispensing under federal law. A DEA registration cannot exceed the scope of the state license and is automatically suspended if the state license lapses. [Dual licensing is now mandatory, lest a medical company remain Schedule I.](#)
- **Single Convention compliance.** To meet Article 23, manufacturers set a nominal price for their crops; DEA purchases and sells them back to the same (or related) entity at that price plus an administrative fee. Crops must be stored in a DEA-accessible facility, and each registration specifies permitted cultivation areas.
- **Tax impact.** Because qualifying state-licensed medical marijuana is now Schedule III, IRC § 280E’s deduction disallowance no longer applies. The Administrator encourages Treasury to consider retrospective § 280E relief for prior years operating under a state medical license; companies should consult tax counsel. [Unclear how to consider a company that has both medical and recreational licenses and revenue, very few large cannabis companies are exclusively medical.](#)

How Recreational / Adult-Use Marijuana Is Treated

- **Not rescheduled.** The order does not apply to recreational or adult-use marijuana. The word “recreational” does not appear in the document, and only FDA-approved products and medical-licensed marijuana move to Schedule III.
- **Expressly excluded.** The rule states: “Registrations under this subpart do not authorize the manufacture, distribution, dispensing, or use of marijuana or products containing marijuana for non-medical purposes.” A state medical marijuana license is defined strictly as one authorizing activity “for medical purposes.”
- **Remains Schedule I.** Adult-use / non-medical marijuana continues to be treated as a Schedule I controlled substance under federal law. Entities operating under state adult-use programs do not qualify for the expedited registration pathway and do not benefit from the § 280E tax change created by this order. [Cannabis can now be Schedule I, Schedule III, or not Scheduled at all based on an ever more complex matrix of state and federal regulations.](#)
- **Treaty rationale.** The limitation to medical use is driven by the Single Convention, which requires parties to confine cannabis production and distribution to medical and scientific purposes; extending the rescheduling to recreational use would be inconsistent with that obligation.

Impact to Marijuana Banking. [This is an additional layer of licensing and regulatory compliance, increasing the need for reliable information at both the State and Federal level. Medical-only licenses make up 32% of Active licenses, the remaining 68% are unchanged.](#)