

Articles + Publications | July 10, 2024

Troutman Pepper Cannabis Communications Newsletter — July 10, 2024

WRITTEN BY

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Troutman Pepper's Cannabis Practice helps clients throughout their business cycle enter or expand into the cannabis space. Our team combines the resources of attorneys in areas such as licensing and taxation, regulatory compliance, corporate and transactional, intellectual property, and real estate, among others, to provide comprehensive services.

Our Cannabis Practice provides advice on issues related to applicable federal and state law. Marijuana remains an illegal controlled substance under federal law.

CANNABIS REGULATORY UPDATES

NAVIGATING THE NEW LEGAL LANDSCAPE: THE IMPACT OF *LOPER BRIGHT* ON FEDERAL MARIJUANA RESCHEDULING

By [Jean Smith-Gonnell](#) and [Dascher Pasco](#)

The federal rescheduling of marijuana has been a topic of conversation within the marijuana industry since President Biden's statement requesting that the secretary of health and human services (HHS) and the attorney general (AG) "initiate the administrative process to review expeditiously how marijuana is scheduled under federal law."^[1] However, the Supreme Court's recent decision overturning the *Chevron* doctrine adds an additional layer to an already complicated process. While the exact impact of *Loper Bright Enterprises v. Raimondo*^[2] on the cannabis industry remains to be seen, this article explores the way in which it may impact the pending rescheduling.

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RESCHEDULING AND RECREATIONAL MARIJUANA: POSSIBLE STEP TOWARD NATIONAL LEGALIZATION?

By [Jean Smith-Gonnell](#) and [Michael Lafleur](#)

Published in [Reuters](#) on July 2, 2024.

On May 16, 2024, the Department of Justice (DOJ) issued its Notice of Proposed Rulemaking (NPRM) related to the transfer of marijuana from schedule I of the Controlled Substances Act (CSA) to schedule III, consistent with the recommendation provided by the Department of Health and Human Services (HHS) in August 2023. The CSA

requires that rescheduling must be accomplished through a formal rulemaking process and public comment starting 60 days from the date of publication in the Federal Register.

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THE PATH AND POLITICS OF MARIJUANA LEGISLATION: STATE-BY-STATE PROGRESS AND FUTURE DIRECTIONS

By [Jean Smith-Gonnell](#) and [Gina Hitchman*](#)

I. Today's Marijuana Landscape

Despite marijuana's continued federal classification as a Schedule I controlled substance,[1] 26 states and the District of Columbia have passed laws at least partially decriminalizing marijuana possession and recreational use.[2] A majority of Americans now live in states where marijuana is legal for recreational use,[3] and nearly three-quarters of Americans live in states that have legalized marijuana for either recreational or medical sales and use.[4] Currently, 14 states have only legalized medical use,[5] while 24 states and the District of Columbia have implemented regulatory schemes for both medical and recreational use.[6] Of the remaining 12 states where marijuana is still illegal, possession is decriminalized in two states.[7] The map below illustrates these categories.[8]

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Gina Hitchman, a 2024 summer associate with Troutman Pepper and not admitted to practice law in any jurisdiction, also contributed to this article.

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