

the buzz:

Cannabis News & Policy Update

August 2026 Edition

FEDERAL UPDATES

Senate votes to delay change in hemp definition: By adopting a [continuing resolution](#) to fund the federal government through December 11, key portions of the new federal hemp definition will be delayed until at least that date. The new definition, currently slated to take effect on November 12, would replace the 0.3% delta-9 THC threshold with a 0.3% total THC threshold. It prohibits products that exceed 0.4 mg of total THC per container and bans synthetic cannabinoids. Under the Senate-approved funding bill, the portion of the definition that bans synthetic cannabinoids would still take effect November 12, but the portion related to naturally occurring cannabinoids will be delayed 29 days.

The funding bill must receive approval from the House, which returns from recess at the end of August. The House previously passed a separate funding bill that did not include language to extend the implementation date of the hemp definition. If the House approves the Senate version and President Trump signs it, lawmakers will likely seek to attach a broader regulatory framework or longer extension to year-end legislation during the lame-duck session following the November election. White House liaison James Braid [reportedly](#) told Senate Republicans there would be no further delay beyond this measure.

Rescheduling:

- **Administrative Hearing:** The Drug Enforcement Administration concluded its [administrative hearing](#) regarding the proposed reclassification of marijuana from Schedule I to Schedule III. Chief Administrative Law Judge Derek C. Julius gave the parties until August 17 to propose transcript corrections and submit optional post-hearing briefs with closing arguments and proposed findings of fact and conclusions of law. Following the deadline, Julius will review the record and prepare a report that includes recommended findings of fact and conclusions of law, along with a recommended decision on the matter. Federal regulations require that report to be completed “as soon as practicable,” but establish no specific deadline. Once the report is served, parties have 20 days to file exceptions, and the judge cannot certify the complete record to the DEA administrator until at least 25 days after the report is served.

- **Litigation:** Opponents of rescheduling, including Smart Approaches to Marijuana and the National Drug and Alcohol Screening Association, [opposed](#) motions by two medical cannabis businesses to intervene in their consolidated D.C. Circuit cases challenging the April rescheduling order. SAM and the other plaintiffs have asked for a stay. Briefing on the request has concluded, but a decision is still pending.
- **Attorney General Appointment:** U.S. Attorney General nominee Todd Blanche was narrowly confirmed by the Senate, 50-49. During his confirmation process, he declined to express support for rescheduling adult-use marijuana in [written responses](#) to questions from members of the Senate Judiciary Committee. He said he would “give the matter careful consideration after conferring with all relevant stakeholders, including DEA personnel.” Blanche also sidestepped a question about whether section 280E of the Internal Revenue Code would continue to apply to businesses that hold both medical and adult-use licenses.
- **280E:** With leave of the Tax Court, the IRS [filed a seriatim sur-reply brief](#) (an additional reply brief) in the New Mexico Top Organics Inc. v. Commissioner of Internal Revenue case, limited to addressing the impacts of the case on the DEA’s April 28, 2026 final rule rescheduling certain medical marijuana products. The case centers on whether Internal Revenue Code Section 280E still applies to state-legal medical cannabis businesses, considering the federal government’s position that medical marijuana fits the definition of Schedule III. The IRS denies that the final rule supports the petitioner’s claim that marijuana was not within the meaning of Schedule I or Schedule II for the years at issue. It also refutes the petitioner’s argument that the Attorney General’s final order offers retroactive tax relief.

NEW MARKETS & LICENSING OPPORTUNITIES

Nebraska: The Nebraska Medical Cannabis Commission advanced a new rulemaking proposal that includes a fee schedule for licenses, renewals, and seed-to-sale tracking, as well as removal of the standalone transporter license type. The language of the rules has not yet been made public. The Commission also extended the product manufacturer license application deadline to August 17. The Commission has not said when it will approve the first product manufacturer or dispensary licenses; based on its meeting schedule, it will not be until September at the earliest.

Utah: The Utah Department of Agriculture and Food opened the application period for the second of two independent medical cannabis pharmacy licenses, which are intended to serve rural or underserved areas of the state. It closes on September 2.



STATE POLICY UPDATES

Colorado: The Marijuana Enforcement Division of the state Department of Revenue proposed new and revised fees, which were the subject of a July 22 stakeholder meeting. The agency also proposed rule revisions addressing several topics, including inventory tracking, testing, packaging and labeling, penny transactions, and violations for using unlicensed independent contractors for licensed activities. A stakeholder meeting was held August 5, and a permanent rulemaking hearing is scheduled for August 26.

On August 4, the DOR's Division of Taxation adopted emergency and permanent rules impacting state marijuana excise taxes. The rules, which stem from legislation enacted earlier this year, create new average market rate (AMR) categories to distinguish between indoor- and outdoor-grown fresh frozen marijuana. The rules also provide guidance regarding the calculation of the retail marijuana excise tax and establish procedures governing tax collection, administration, and enforcement. The AMR-related rules take effect September 1.

Massachusetts: A citizen initiative that aims to eliminate licensed adult-use marijuana sales in Massachusetts will appear on ballots as Question 8 in the November election. The State Ballot Law Commission rejected a challenge to the validity of the signatures collected by proponents to qualify the measure for the ballot.

Separately, the Massachusetts Cannabis Control Commission outlined a phased schedule for completing regulatory changes required by Chapter 65, which was approved by lawmakers earlier this year. A statutorily required hearing on testing and a final vote on emergency rules are tentatively scheduled for August 25. Ahead of this vote, the Commission officially opened the public comment period for these new testing regulations and released the results of a product shelf audit to address THC potency label accuracy. A regulatory package covering several topics, including vertical integration, ownership and control, testing, and advertising, is expected in fall 2026. An additional package dealing with more complex or resource-dependent issues like accounts receivable requirements, potency conversion standards, and reference laboratory regulations is expected in spring 2027.

Ohio: The Division of Cannabis Control filed updated language for Rulemaking Package 7, proposing new rules around testing, manufacturing controls, and non-marijuana ingredients. The proposal also integrates S.B. 56 requirements affecting advertising preapproval, prohibitions on inducing certain referrals, and changes around business-to-business transfers. The Division will accept comments until August 24, when it will hold a public hearing.

HEMP

Delaware: Gov. Matt Meyer (D) signed [H.B. 373](#) into law, creating a licensing, distribution, retail, and tax framework for THC-infused beverages. It allows the sale of beverages with up to 10 mg delta-9 THC per container through package stores, certain microbreweries, and marijuana retailers. THC-infused beverages will be subject to a tax of \$0.50 per single-serving infused beverage container and \$8.50 per 750-milliliter bottle. Most of the bill takes effect October 21, 2026, and the new beverage tax takes effect February 1, 2027. The hemp beverage market would automatically be terminated if the pending new federal hemp definition takes effect.

Missouri: The Missouri Hemp Trade Association and hemp businesses filed a [federal lawsuit](#) challenging [H.B. 2641](#), which would bring state law in line with the pending federal definition that limits products to 0.4 mg total THC per container. If the law is implemented, products exceeding that limit would only be allowed through Missouri's regulated marijuana system. The complaint alleges that overlapping definitions and implementation dates are unconstitutionally vague, that parts of the law conflict with federal hemp protections, and that transport, sourcing, and licensing restrictions discriminate against interstate commerce.

North Carolina: : The state House of Representatives declined to take up the conference report for [H.B. 328](#), which proposes bringing North Carolina's definition of hemp in line with the pending federal definition that prohibits finished hemp-derived consumables with more than 0.4 mg total THC per container. House Speaker Destin Hall (R) [said](#) the bill will not get a vote until after the November election. Gov. Josh Stein (D) [expressed](#) reservations about the bill and said it is "premature" to say whether he would sign it. He has expressed support for a well-regulated THC market for adults.

Texas: The Department of State Health Services [reinstated](#) language to the state's Schedules of Controlled Substances clarifying that tetrahydrocannabinols and marijuana extract remain in Schedule I. The notice of reinstatement preserves the statutory hemp exception of 0.3%, but treats certain synthetic equivalents, derivatives, and isomers with similar chemical structure and pharmacological activity as controlled substances. The reinstatement stems from a Texas Supreme Court [decision](#) that upheld the commissioner's scheduling authority.



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