



August 18, 2025

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: Urgent Advocacy Regarding Marijuana Rescheduling to Protect Transportation Safety

Dear President Trump,

The National Drug & Alcohol Screening Association (NDASA) respectfully urges your administration to prioritize public safety in any decisions regarding the rescheduling of Marijuana under the Controlled Substances Act (CSA). Our membership represents a wide-ranging coalition of tens of thousands of employers and millions of American workers nationwide. We are committed to protecting the safety of commercial and public transportation. We are deeply invested in preventing crashes, injuries, and fatalities caused by impairing substances, including marijuana (THC).

We are profoundly concerned about the proposed rescheduling of marijuana (THC) from Schedule I to Schedule II or III. This action would have severe unintended consequences for transportation safety, effectively ending the U.S. Department of Transportation's (DOT) ability to test safety-sensitive employees for marijuana use. Safety-sensitive roles include airline pilots, air traffic controllers, school bus drivers, subway and train operators, ferry operators, pipeline operators, and truck drivers. These are positions where impairment could lead to catastrophic loss of life. For over three decades, DOT-regulated marijuana testing has served as a critical deterrent, with successful prevention of tragedies that occurred prior to the Omnibus Transportation Employee Testing Act of 1991. We urge this administration to continue the successful record of safety for America's traveling public.

The authority for the Department of Health and Human Services (HHS) to conduct marijuana testing and certify laboratories stems from Executive Order 12564 (Drug-Free Federal Workplace, issued September 15, 1986). Under Section 7(c) of this order, HHS is limited to testing for "illegal drugs" defined as controlled substances in Schedules I or II of the CSA (21 U.S.C. § 802(6)). This is further reinforced in Sections 3.2(a) of the HHS Mandatory Guidelines for Urine and Oral Fluid, which explicitly states that testing applies to drugs in Schedules I or II. The Omnibus Transportation Employee Testing Act of 1991 (OTETA), codified at 49 U.S.C. §§ 45102, 45104 (aviation), 20140 (rail), 31306 (motor carrier), and 5331 (transit), mandates that

DOT follow HHS for the science of drug testing. This includes drug panels, metabolite cutoff levels, and the use of HHS-certified laboratories.

Rescheduling Marijuana to Schedule III—or lower—would strip HHS of this authority, rendering DOT unable to legally test for marijuana. Test results from non-certified labs would be unsustainable in court, halting all marijuana testing for safety-sensitive employees overnight and exposing the public to heightened risks on roads, rails, skies, waterways, and pipelines.

This concern extends beyond the current rescheduling proposal. Legislation such as H.R. 2934 (STATES 2.0 Act), which seeks to remove marijuana entirely from CSA classification and shift oversight to the Food and Drug Administration (FDA), would exacerbate these issues. Such a move would not only end DOT testing but also conflict with international obligations under the 1961 Single Convention on Narcotic Drugs, which restricts non-medicinal marijuana use. Without intervention, these changes could undermine decades of proven safety measures, potentially leading to impairment-related incidents in an industry where even minor errors can have devastating consequences.

In alignment with the Occupational Safety and Health Administration's (OSHA) longstanding support for drug-free workplaces under the Occupational Safety and Health Act (OSH Act), which requires employers to provide a workplace free from recognized hazards, including those posed by substance abuse impairment, we emphasize the need for robust policies that extend beyond federally regulated sectors. OSHA strongly endorses measures contributing to drug-free environments and reasonable drug testing programs as part of comprehensive workplace safety initiatives, such as post-incident testing to evaluate root causes of accidents. However, varying state laws on marijuana legalization often restrict employers' ability to implement such testing, particularly for off-duty use, creating inconsistencies that jeopardize workplace safety.

We furthermore believe the evidence does not support a move to Schedule II, as it overlooks critical factors such as the lack of reliable impairment testing for THC or the ability for a physician to safely prescribe an appropriate dosing amount that allows an operator to perform safely while under-the-influence. We must not ignore the fact that marijuana is an impairing drug. Marijuana, in its raw form, is not a medication that can be prescribed and unlike alcohol, which is water-soluble and has established impairment standards, THC is lipid based, lingering in the body and causing prolonged effects influenced by potency (ranging from 16% to 90%), consumption method (e.g., smoking, edibles, vaping), and individual usage patterns. Without impairment standards, presence-based testing remains the only viable safeguard. For these reasons, and many other complicating factors, a move to Schedule II is far premature unless and until there is a medical framework in place that has proven safety standards for U.S. citizens.

To avert these risks while balancing innovation and compassion, we strongly advocate for the following options, which would demonstrate your administration's firm commitment to protecting the best interests of public safety without alteration, even as marijuana (THC) becomes more readily available:

1. Maintain the Status Quo and Leave Marijuana in Schedule 1

We strongly support the Administration making no change to the current status of marijuana in Schedule 1 due to the fact that the raw plant meets every requirement for Schedule 1 status under the CSA:

1. The drug's actual or relative potential for abuse;
2. The scientific evidence of the drug's pharmacologic effect, if known;
3. The state of current knowledge regarding the drug;
4. The drug's history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk, if any, to public health;
7. The drug's psychic or physiological dependence liability; and
8. Whether the drug is an immediate precursor of a controlled substance. 21 U.S.C.A. 811 (c)

Please note that these factors are true with low potency marijuana (under 10% THC) and are further exacerbated by the high potency concentrates commonly available for public use today (16 – 90% THC).

The Drug Enforcement Administration (DEA) offers the following on their website “Marijuana smokers experience serious health problems such as bronchitis, emphysema, and bronchial asthma. Extended use may cause suppression of the immune system. Withdrawal from chronic use of high doses of marijuana causes physical signs including headache, shakiness, sweating, and stomach pains and nausea.” Source: Drug Fact Sheet. Marijuana/Cannabis. DEA. https://www.dea.gov/sites/default/files/2020-06/Marijuana-Cannabis-2020_0.pdf

2. Implement a Safety Carve-Out via Executive Order:

We oppose rescheduling marijuana. We believe this Administration could have a big win by protecting public safety in issuing a new Executive Order supplementing, not replacing Executive Order 12564—immediately before or simultaneously with the action. This order should explicitly authorize HHS to test for and certify laboratories to test for substances beyond Schedules I and II, including Schedule III drugs like THC and emerging threats. A sample framework could include:

Executive Order _____-- Supplement to the Drug-free Federal workplace Executive Order 12564

I, DONALD JOHN TRUMP, President of the United States of America, find that:

The Federal government, as an employer, is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity;

The Federal government, as a regulator of transportation safety, is concerned with the well-being of transportation safety-sensitive employees, the traveling public, and others who benefit from the safe operation of commercial transportation;

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 3301(2) of Title 5 of the United States Code, section 7301 of Title 5 of the United States Code, section 290ee-1 of Title 42 of the United States Code, deeming such action in the best interests of national security, public health and safety, law enforcement and the efficiency of the Federal service, it is hereby ordered as follows:

Section 1(a) For purposes of drug testing and laboratory certification under Executive Order 12564, the Secretary of Health and Human Services is authorized to promulgate scientific and technical guidelines for drug testing programs, and to certify laboratories to conduct drug testing for “illegal drugs”.

Section 1(b) For purposes of this Order and Executive Order 12564, the term "illegal drugs" means a controlled substance included in Schedules I through V, as defined by section 802(6) of Title 21 of the United States Code, or an unscheduled drug that is deemed by the Department of Justice or the Department of Health and Human Services to be potentially endangering to health, safety or security. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law. However, marijuana continues to be an illegal drug if used by safety-sensitive or safety-related employees, regardless of a marijuana prescription or recommendation for its use.

The language in Section 1(b) would grant HHS, and its agency, SAMHSA, the authority to conduct testing and certify laboratories for drugs beyond Schedules I and II. The language stating “or an unscheduled drug that is deemed by the Department of Justice or the Department of Health and Human Services to be potentially endangering to health, safety or security” would allow for the testing of substances that demonstrate an emerging threat, such as “street drugs” that have not yet been classified by the DEA under the CSA.

This *Safety Carve-Out* would maintain the status quo for federally regulated testing, deterring marijuana use among safety-sensitive employees. It aligns with your administration's commitment to public health, national security, and efficient federal service, as outlined in the foundational

authorities of Executive Order 12564, by ensuring public safety remains fully protected as it has for nearly 35 years.

NDASA stands ready to provide further expertise, testimony, or collaboration to support these efforts. We appreciate your attention to this urgent matter and your dedication to preserving transportation safety for all Americans.

Respectfully submitted,

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The Honorable Attorney General Pam Bondi

The Honorable Secretary of State Marco Rubio

The Honorable Secretary of Health & Human Services Robert F Kennedy, Jr.

The Honorable Administrator of the Drug Enforcement Agency, Terry Cole

U.S. Department of Transportation Secretary, Sean Duffy

Office of Drug and Alcohol Policy and Compliance, Doug Simon