Public Comment - November 6, 2026

On October 20, 2026, the Iowa Department of Inspections, Appeals and Licensing held a public hearing on proposed rules that will transfer Chapter 124E from Schedule 1 to Schedule 3, pursuant to the recent federal rules published on April 28, 2026.[1]. I was the only person who made comments at the hearing and I spoke several times. I made a 12-minutes video of the hearing by removing all the parts where no one was speaking.[2]

The new federal rule moved state "medical marijuana" to Schedule 3 consistent with international treaty provisions pursuant to 21 U.S.C. § 811(d).[3][4] Non-medical marijuana remains in Schedule 1 while the federal government continues moving it to Schedule 3 pursuant to 21 U.S.C. § 811(a). This decision under 21 U.S.C. § 811(d) to bypass the formal rulemaking procedures in 21 U.S.C. § 811(a) is currently being challenged in the U.S. Court of Appeals.[5]

All of these changes have been in administrative rules, based on the argument that something triggered a change. No new legislation has been enacted, either federally or locally, that would trigger this change, other than the enactment of Chapter 124E nine years ago. I have been asking the state to obtain federal authorization using 21 U.S.C. § 822(d) for the past nine years instead of waiting for the federal government to act first, apparently using 21 U.S.C. § 811(d) as the trigger by tying it to international treaty obligations.

Considering the new federal rules were adopted without formal rulemaking and haven't been thoroughly vetted yet, I would ask the board to continue recommending a legal task force to explore federal exemption under 21 U.S.C. § 822(d), which is also consistent with international treaty provisions.[6][7] Applying for a federal waiver may be useful as this progresses, so the state should understand it and be ready to use it if necessary.

The board can revisit this question again when the dust settles. For now, please keep recommending a legal task force to work on federal exemption.

Thank you!

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[1] https://www.legis.iowa.gov/docs/aco/bulletincontent/09-30-2026.Regulatory%20Analysis_1789069678982.pdf

[2] https://www.youtube.com/watch?v=amGSNZDOSeY

[3] New definition of "prescription", 21 C.F.R. § 1301.13(k)(5), 91 FR 22721, Apr. 28, 2026.

[4] New Schedule 3 for "state medical marijuana", 21 C.F.R. § 1308.13(g), 91 FR 22722, Apr. 28, 2026.

[5] United States Court of Appeals for the District of Columbia Circuit, SAM, Inc. v. Department of Justice, 26-1106, 26-1130, 26-1136

[6] Exception for "constitutional limitations ... legal system and domestic law", Article 36, Single Convention on Narcotic Drugs, 18 U.S.T. 1407, 520 U.N.T.S. 151

[7] Exception for "constitutional limitations ... legal system and domestic law", Article 22, Convention on Psychotropic Substances, 32 U.S.T. 543, 1019 U.N.T.S. 175