Tuesday, May 21, 2024 / Weed did it, Joe

[HALF SECOND OF SILENCE]

[BILLBOARD]

SEAN RAMESWARAM (host): When was the last time you noticed a federal comment period? You know the type. Federal government is passing a law or changing a rule and they wanna hear what you think about it. Well, one of those comment periods kicks off today and runs for the next two months. And it’s a big one.

SCORING IN – RNM\_RNM\_0079\_04701\_STEM\_(AI\_Instrumental)\_APM

SEAN: The federal government wants to know what you think about their plan to reschedule marijuana.

Not what time you take your smoke break, Spicoli.

*<*[*CLIP*](https://www.youtube.com/watch?v=sW1S4f9tyF8)*> FAST TIMES AT RIDGEMONT HIGH:   
 SPICOLI: Sorry, I’m late. It’s just like this new schedule is totally confusing.*

SEAN: The federal government is basically trying to recategorize weed. And it could happen as soon as Election Day. The president says it’s a big deal.

*<*[*CLIP*](https://x.com/POTUS/status/1791152464617431389)*> PRESIDENT BIDEN: This is monumental.*

SEAN: But we reached out to a cannabis policy reporter at Politico to ask if *she* thought it was monumental. And she said yes, but also no.

SCORING SPUTTERS OUT

SEAN: Our conversation is coming up on *Today, Explained*.

[THEME]

NATALIE FERTIG (federal cannabis policy reporter at *Politico*): Can I start with a really quick, like, terminology lesson?

SEAN: Let's do it. Let's define some terms.

NATALIE: Cannabis is hemp and marijuana. And that's not a scientific definition. That's a legal definition.

SEAN: Okay.

NATALIE: Hemp or cannabis with less than 0.3% THC is federally legal. It's supposed to be the stuff that doesn't make you high. Cannabis with more than 0.3% THC is federally illegal, and it's still called marijuana, and it's in the Controlled Substances Act. If we're talking about cannabis, we're talking about stuff that's legal and stuff that is federally illegal, Okay,

SEAN: Hm.

NATALIE: So I'm going to use marijuana just so that we can be clear about what I'm talking about. <laughs>

SEAN: I'm going to use marijuana, too.

*<CLIP> SATURDAY NIGHT LIVE: Debbie Downer horn SFX*

NATALIE: I am Natalie Fertig and I am the federal cannabis policy reporter at *Politico*.

SEAN: Let's start with Joe Biden's big announcement about marijuana. What did he say last week and how is it going to happen?

NATALIE: Yeah. So Biden started this process in October of 2022 when he issued this executive order saying, ‘Hey, I'm going to pardon certain types of cannabis crimes. And I'm also going to ask multiple agencies to look into moving cannabis on the Controlled Substances Act.’

SCORING IN — Spin The Wheel - (bouncy, headstrong, rave, breakbeat)-04

NATALIE: The Controlled Substances Act, is like where heroin and cocaine and Tylenol with codeine are all listed. And like, what the rules and regulations are for them. Then last week the DOJ finally came out and said, yes, we have proposed a rule that would make cannabis a less strict drug.

*<*[*CLIP*](https://x.com/POTUS/status/1791152464617431389?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1791152464617431389%7Ctwgr%5Ea0287b69b50475f9464552368e7c1f5627240375%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fiframe.nbcnews.com%2FglJ0wrH%3F_showcaption%3Dtrueapp%3D1)*> BIDEN: This is monumental today my administration took a major step to reclassify marijuana from a schedule 1 drug to a schedule 3 drug*

SCORING OUT

SEAN: And Joe Biden says this is a very big deal. Is, is it a really big deal?

NATALIE: It is and it is not. Um. It is maybe the biggest change in federal drug policy since the Controlled Substances Act was passed more than 50 years ago.

SEAN: Hm!

NATALIE: However, for everyday people, it won't signal a huge amount of change for them. Nobody's going to get out of prison because of the rescheduling. It's not going to suddenly be legal in places that it's not like Idaho. And in places where it is legal for recreational or medical use, it'll be status quo.

SEAN: I want to ask you a lot more about this rescheduling, but I also want to ask you a lot more about the status quo. Can we just talk about the current cannabis policy landscape in the United States?

SCORING IN — Bouncing along - BMC

NATALIE: So more than half of the country lives in a state where marijuana is recreationally legal. But all of those state laws are totally against federal law.

SEAN: Mm-hm.

NATALIE: Someone once called it the biggest gap between federal and state law since the Civil War.

SEAN: Wow!

NATALIE: A lot less violent currently, but legally, it's this huge gap between what states are doing and what the federal government is doing.

SEAN: There is a crazy patchwork of laws across this country right now, right? What, what's the gamut? Can you give us a sense?

NATALIE: So, patchwork. We've got on the far end the state of Utah has legal medical marijuana, which often surprises people because, you know, Utah also has very strict alcohol laws and alcohol regulations. But the Mormon church got behind legalization a couple of years ago.

SEAN: Bless them.

NATALIE: But when they did that, they made it very akin to pharmaceuticals and like actual medicine, Western medicine. So you have to have a pharmacist in dispensaries that checks your prescription and says, ‘Yeah, you're still within your prescription.’

*<*[*CLIP*](https://www.youtube.com/watch?v=GUethWnwc_A)*>: Since Utah voters legalized medical cannabis in 2018, the legislature has repeatedly stated it will be considered the same as any other controlled substance. You can’t use it or be impaired while on the job. But it’s no different than other prescriptions.*

NATALIE: And then on the other end, you've got places like Oregon and Oklahoma. Oregon has recreational. Oklahoma has medical, but they both are just very wide open. Um, at one point in Oregon, there were more dispensaries than there were Starbucks and McDonald's combined.

*<*[*CLIP*](https://www.youtube.com/watch?v=qbgEj2PRu1U)*> LOGAN ROY: Badaba ba ba*

NATALIE: And in Oklahoma, where only medical is legal, like 10% of the state at one point had a medical card…

SEAN: <laughs>

NATALIE: …which essentially made it recreational.

SEAN: That's a lot of sick people!

NATALIE: Yeah. So, those states, you know, have kind of started to reel back in their regulations when both of them legalized. They were just like, ‘Everybody come!’ Everyone have a dispensary. Dispensary for you. Dispensary for you.

SCORING OUT

SEAN: And as some might know – especially those who listen to this show regularly – legalizing marijuana, even in the states where it's legal, has not done much to shut down black markets for the drug, right? We've reported on, on *Today, Explained* about this issue in California…

*<<TAPE SOUND>>*

*<CLIP>: the illegal market had used legalization as a springboard, kind of a cover to come out of hiding from the forests and national parks into the valleys, into small communities even in California.*

*<SFX> TAPE OUT*

SEAN: ...but then we've also heard a lot about New York City, which has a ton of weed shops since they legalized marijuana, but most of them aren’t legit.

NATALIE: The best way to term cannabis right now is half-assed. Like, it's, it's half done. It's only legal in half the places. But conceptually, people have become much more comfortable with discussions about marijuana, with use of marijuana. Millennials and Gen Z are much higher users of marijuana than generations beforehand. So if you're living in Pennsylvania or you're in Philadelphia, you're 25, you work in a coffee shop, you're like, ‘I want to come home and, you know, have a joint on a Friday night. It's not legal for you to buy that there.’

SEAN: Mm.

NATALIE: But you can drive to New Jersey. You can drive to New York. You can buy it there. Or you could just call your guy in Philadelphia. And it's probably easier for him to now get it from states nearby where it is legal to grow. And it's harder for police to say, hey, there's ten weed plants in that person's house. Is that legal or illegal? Um, Now they have to check if that person has a license, which requires manpower, which requires someone to go through and look through all the data. It's made it easier for people to grow cannabis in places like Northern California and southern Oregon, and then ship that cannabis out of the state. The vast majority of cannabis that's produced in Oregon - illegally in Oregon and California - leaves those states and goes to places like New York City or Philadelphia or Miami.

SEAN: And this stuff that's traveling across the country that, that Gen Z is smoking, that even Gen Alpha is smoking, it's important to note that it's much stronger than the stuff that the Boomers were smoking at Woodstock…

*<*[*CLIP*](https://www.youtube.com/watch?v=FcYTmICY1yg)*>: CHORUS OF HUMANS YELL: MARIJUANA!*

SEAN: …or that they were even smoking at Woodstock 94…

*<*[*CLIP*](https://www.youtube.com/watch?v=Z6LG0QtCAnw)*>: COLLECTIVE SOUL: YEAH!*

SEAN: …or Woodstock 99…

*<*[*CLIP*](https://www.youtube.com/watch?v=UQzAKxgBAL8)*>: KORN “BLIND” RIFF*

SEAN: This stuff is super potent, right? Can you just give us a sense of how strong it is?

NATALIE: Wow, first, like Woodstock deep cuts there. <laughs> This is sort of like talking about *Now 15*.

SEAN: <laughs>

NATALIE: Marijuana is much more potent than it used to be. A lot of people talk about the potency of marijuana flower, you know? Just like we've got corn …

*<<*[*CLIP*](https://www.youtube.com/watch?v=UQzAKxgBAL8)*: KORN “BLIND” RIFF>>*

NATALIE: … that grows bigger than it used to grow 100 years ago, We've now got marijuana flower that grows more potent than it used to grow. So is how farmers do their trade. You know, we've gone from between, like, 4 to 7% THC potency in your average flower, cannabis flower to in the 20s, on average, in states where it's recreationally legal. The, the big problem when I talk to scientists about this, because I know there's a lot of worries about youth access and about the potential for psychosis and high potency. The biggest worry isn’t a 30% flower. It's 80 and 90% vape pens and…

SEAN: Hm.

NATALIE: …edibles, things that are really, really high potency. Edibles are harder to do that because they don't hit for like two hours.

SEAN: You can't turn it off!

NATALIE: Then you're gone because that's how much you took. You know, and then with vape pens, vape cartridges, it's a little easier to self titrate, but it's also so potent that it can go much higher, much quicker. And so between the ages of 15 and 25, the brain is like reforming itself. It's clearing out its synapses that it doesn't need. THC can speed up that process in ways that are not normal. And in a very small percentage of people, it can induce psychosis. So that's the big worry. It is a big worry for a small percentage of the population, but it's a big conversation for lawmakers…

SCORING IN <Dressing On The Side (footwork, bouncy, high energy)-02>

*<*[*CLIP*](https://www.youtube.com/watch?v=PklZ_InpgPQ)*>: NEWS: Colorado’s governor just signed a new law to track and limit the purchase of high potency pot*

*<*[*CLIP*](https://www.youtube.com/watch?v=Dep-xQx9RE4)*>: These products are incredibly harmful*

*<*[*CLIP*](https://www.youtube.com/watch?v=yxEunjx7zGE)*>: We should be very very concerned about the concentrate as it relates to cannabis*

NATALIE: No one wants to be the one that legalized something that hurt a bunch of kids. And then you got angry parents, and then you're getting blamed the same way that, you know, lawmakers who didn't put strict enough rules around nicotine and cigarettes a couple decades ago, got blamed for lung cancer. There's a lot of fear in politics. So I would say that this becomes an outsized conversation amongst lawmakers who are worried about what they can then be blamed for. If they were to, support legalization.

SCORING BUMP  
  
SEAN: Now that we’ve got the landscape, we’re gonna ask Natalie what rescheduling will do when we’re back on *Today, Explained*.

[BREAK]

*<*[*BUMPER*](https://www.youtube.com/watch?v=8w256-i2pHc)*> Otto from The Simpsons: Psst, I want to buy some pot.*

*Dispensary employee: All right, pump the brakes, jorts. Got to ask a few questions first.*

SEAN: *Today, Explained* is back with Natalie Fertig, federal cannabis policy reporter for Politico. Natalie, we talked about the patchwork in the United States. We talked about how potent this stuff has become. We talked about how hesitant some lawmakers are around legalization. But could you now just tell us what reclassification of marijuana would actually mean in practice? Would it lead to more, I don't know, uniformity in state laws?

NATALIE: No, it will not.

SEAN: Ok. <laughs>

NATALIE: States are still <laughs> doing their own thing because it's still federally illegal. It's not removed from the Controlled Substances Act. That would be *de*scheduling or *de*classification. This is a rescheduling.

SEAN: Mm.

NATALIE: So it's just in a less strict category. The category it's currently in is the same one as heroin. The one they're moving it to is the same as ketamine…

SEAN: Ah-ha.

NATALIE: For context. So, the biggest change that that will create actually is for the cannabis industry itself, because there's this tax code that was meant for mobsters.

SEAN: Huh.

NATALIE: That essentially means you cannot write off any business expenses if your business is selling schedule one or schedule two drugs. Heroin, cocaine, methamphetamine are all in schedule one and schedule two. So you can't write off any business expenses. So they pay like 70%, up to 70% in taxes every year, which means that they all struggle just to stay afloat. And if it's rescheduled, then they will no longer have to pay that high of a tax rate. And the cannabis industry, if you're in a state where it's legal, might expand a lot after this. That's the biggest shift, actually.

SEAN: So it's basically a big shift for small business owners and entrepreneurs who are in this industry.

NATALIE: Yeah.

SCORING IN <Guarda - Neutral (a)>

NATALIE: There's an organization called the Minority Cannabis Business Association that represents specifically cannabis business owners of color. And they've come out and said this would be really, really useful because especially people who've gone through the social equity programs in different states often have less capital than like a wealthy white real estate guy from Orange County who decided to get into the cannabis industry. And yes, I've…

SEAN: Hm.

NATALIE: I've talked to those people, too. They tend to have connections that can give them venture capital. They've got more money just sitting in the bank that they can invest.

*<*[*CLIP*](https://www.youtube.com/watch?v=gSnKHWlf39M)*> KARE 11: Diversity in the industry is a big problem, with small business owners, minority owners especially, struggling to get started, with larger companies having more resources and experience to dominate the industry.*

NATALIE: You know someone whose family personally has been impacted on the war on drugs. Maybe their dad spent quite a few years in prison. They don't have the same deep pockets. And they probably also don't just know venture capitalists…

SEAN: Hm.

NATALIE: …to invest in their business.

*<*[*CLIP*](https://www.youtube.com/watch?v=gSnKHWlf39M)*> Angela Dawson, KARE 11: One of the lessons that we learned from other states about how it was done wrong is that we thought about diversity as an afterthought. And they just ended up being cut out of the industry in general. They didn't know how to survive. They didn't have the right skills, they didn't have the right networks.*

NATALIE: So being able to pay less taxes is going to help those types of businesses get off the ground faster. That’s the argument that's been made to me by these groups.

SCORING OUT

SEAN: Well, I'm glad you brought up people who have been incarcerated over marijuana, because I'm curious if this rescheduling does anything further to alleviate their sentences or their criminal backgrounds, whatever it might be.

NATALIE: Yeah, it's a really good question. And the answer is it does not.

SEAN: Huh!

NATALIE: And that's probably the biggest critique of this, is that nobody's going to get out in prison. If you live in a state where it's illegal or you cross state lines, or you get on an airplane and you happen to be sitting next to a federal marshal who's like, ‘Why do I smell weed on you? Turn out your pockets.’ Those will also be crimes. It's still a federal crime, right? If you live in a state where it's state legal, you're already not getting, you know, arrested for having a joint in your pocket.

SEAN: Right.

NATALIE: So that's not going to change. The federal criminal code in the United States specifically says marijuana, and that can only be changed by Congress. That can't be changed by an act of the executive branch, by the president, at all. So Congress has to be the one to pass a law that says marijuana no longer has any criminal penalties at the federal level.

SEAN: Mmmm.

NATALIE: Biden, though in October 2022, did also issue some pardons, and he's issued more since then for federal cannabis crimes.

*<*[*CLIP*](https://www.youtube.com/watch?v=fgn94EMxEM0)*> President Joe Biden: I'm announcing a pardon for all prior federal offense, federal offenses for the simple possession of marijuana. There are thousands of people who are convicted from marijuana possession who may be denied employment housing or educational opportunities as a result of that conviction. My pardon will remove this burden on them.*

NATALIE: Most people with marijuana possession charges are at the state level. And so he also asked governors, ‘Hey, can you guys also issue pardons or expungements for people in your states who have what we call, like, low level nonviolent cannabis charges, whether that's possession or that's just a minor amount of selling.’

*<*[*CLIP*](https://www.youtube.com/watch?v=fgn94EMxEM0)*> President Joe Biden: I'm calling on all governors to do the same for state marijuana possession offenses.*

NATALIE: And actually, since the president announced that, Kentucky and Massachusetts have issued pardons, certain types of pardons.

*<*[*CLIP*](https://www.youtube.com/watch?v=M8DRa3wDIp4)*> Daniel Vasquez: Cannabis is legal in Massachusetts. You can grow it, you can sell it, you can buy it, you can possess it. And I think that it’s only appropriate that we get with the current times and step into the future. It's legal now, so the pardon is just an amazing step forward.*

SEAN: So it sounds like it's safe to say that this isn't going to do a lot on the criminal justice front. What about the front we discussed earlier where the weed’s just way stronger and way more readily available, even though you can't turn it off when you eat too big an edible or whatever.

NATALIE: So this is really complicated because technically, as a schedule three drug, it could be more regulated. I'm not putting my money on that happening.   
  
SEAN: Mm.  
  
NATALIE: Without an act of Congress saying, this is what you should do, and this is how we want you to do it. Also, I've heard FDA talk about this and their response, I'm paraphrasing, but their response is essentially, like, ‘With what money?’

SEAN: Huh.

NATALIE: They're just not cut out right now to regulate an intoxicating industry in terms of labeling and testing and all of that kind of thing.

SEAN: And I take it Congress doesn't want to do this right now, based on what you said earlier about there being a lot of fear?

NATALIE: Yeah. So the House has actually passed a bill that would deschedule cannabis, and then it just has a line saying: FDA, regulate it. So there's not a system for how the FDA would regulate it. In the Senate, Majority Leader Chuck Schumer has introduced a bill that would deschedule cannabis and tax it and regulate it.

*<*[*CLIP*](https://www.youtube.com/watch?v=m-MwU2BZhVg)*> Senate Majority Leader Chuck Schumer: It's time for Congress to wake up to the times and do its part by passing the cannabis reform that most Americans have, have wished for. It's past time for Congress to catch up with public opinion and to catch up with the science.*

NATALIE: But that bill doesn't even have full Democrat support right now.

SEAN: Wow!

NATALIE: And then you need to get ten Republicans on board, too. And while there are some Republicans who I've talked to who will say things like, you know, ‘The current state of things is untenable. We need to figure something out. This is kind of getting crazy and out of hand.’ No one wants to be the one to, like, take the plunge and be the small group of Republicans that crosses the aisle to legalize something that then they could get blamed for. Democrats have cover because they're all doing it together.

SEAN: Mmmm.

NATALIE: To me it's a generational thing. As Congress ages, and more Gen Xers and more millennials and eventually Gen Zers come into office, that's when it's going to be more likely that they're going to make this change.

SEAN: Okay. But in the meantime, we've got this change coming from famously old President Joe Biden, who famously wasn't that into this idea either for much of his political career.

NATALIE: Right.

SEAN: Why now? Why is he rescheduling this? Why is he making this big, small change that mostly affects small business, entrepreneurs in this industry in this election year? Is it just a play for votes and is it going to work, if so?

NATALIE: Yeah. You know, I was going to say, you know, I'm not sure if you're aware of what's happening this November.

SEtwAN: <laughs>

NATALIE: But there will be a presidential election. That plays into it. Based on my knowledge of President Biden, it's not something that he would do just for an election action if he didn't believe that it was the right action to do.

SEAN: Mm.

NATALIE: But, you know, we're talking about, hey, he's older, he's was the only Democrat to not come out in favor of legalization in the 2020 campaign. He's still that.

SEAN: Mm.

NATALIE: But he has found the way that he can both liberalize drug laws without making it fully legal. And that would play into some of his worries. His family has had issues with drugs. You know, Hunter…

SEAN: Mm.

NATALIE: …Biden famously has had issues with drugs.

NATALIE: Drug addiction and worries about drug addiction are very personal to the president. And so that is reflected in this decision that he's made to kind of thread the needle between liberalizing, but still being a bit conservative on drug laws.

SEAN: And it still leaves us behind the American people. A recent Gallup poll showed that 70% of U.S. adults favor weed legalization. And as we established in half the country, more or less, you can walk down the street and purchase legal weed. Do we think federal weed policy will ever catch up to how everyday Americans see and use this drug?

NATALIE: Will it ever be on par with how Americans view it in that moment? Probably not. But will it ever catch up to where Americans are right now? Eventually, probably.

SCORING IN <Trippy Hood - APM>

NATALIE: It tends to be how things happen a lot. I've had pollsters compare the dramatic shift in popularity, or in acceptance of cannabis, with the dramatic and quick shift in the acceptance of gay marriage in the United States …

SEAN: Hm!

NATALIE: … which also bubbled up from the state level to the federal level. There's definitely parallels between how much those two things have shifted – cannabis in the last 20 years, gay marriage in the last 30 years – in looking from how it shifted amongst the American public to what then happened in state and then federal law. And I think we can imagine that that'll happen here.

SCORING BUMP

SEAN: Natalie Fertig is the cannabis policy reporter at Politico.

*<*[*CLIP*](https://open.spotify.com/episode/7INWydhbsLeVlqyBxecJx4?si=VWluosKHS1CCIOAU7zGkZg&dl_branch=1&nd=1&dlsi=6e17d39833d14e26)*> Politico interview clip*

*Natalie: “Senator Sanders? Natalie Fertig with Politico. I'm the cannabis reporter. There’s been…”*

*Bernie: You are the cannabis reporter?*

*Natalie: I’m the cannabis reporter.*

*Bernie: Are you stoned now?*

*Natalie: I'm not stoned right now, but I will ask you questions.*

*Bernie: Is that a requirement to be?*

*Natalie: It’s actually not.*

*Bernie: Ok. Just wanted to check it out.*

*Natalie: I know, it's a good question.*

Our show today was produced by Peter Balonon-Rosen and Avishay Artsy.

We were edited by Matthew Collette, fact-checked by Laura Bullard, and mixed by Patrick Boyd and Andrea Kristinsdottir.

I’m Sean Rameswaram. This is *Today, Explained*.

[10 SECONDS OF SILENCE]