



Mr. Shane Pennington, Esq.  
1115 Broadway  
Suite 1218  
New York, New York 10010

Dear Mr. Pennington:

This is in response to your email of November 18, 2021 in which you request the control status of *Cannabis Sativa L.* seeds, tissue culture, and any other genetic material of *Cannabis Sativa L.* under the Controlled Substances Act (CSA). You state that the seeds, tissue culture, and other genetic material have delta-9 tetrahydrocannabinol concentrations of not more than 0.3% on a dry weight basis. The Drug Enforcement Administration (DEA) conducted a review of the CSA and its implementing regulations with regard to this question.

Title 21 of the United States Code (U.S.C.) § 802(16) states that the term “marihuana” means all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, and any compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.”

The CSA excludes from that definition “hemp.” 21 U.S.C. § 802(16)(B)(i). The term “hemp” is “the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” 7 U.S.C. § 1639o.

Accordingly, marihuana seed that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of “hemp” and thus is not controlled under the CSA. Conversely, marihuana seed having a delta-9-tetrahydrocannabinol concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marihuana.

Likewise, other material that is derived or extracted from the cannabis plant such as tissue culture and any other genetic material that has a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis meets the definition of “hemp” and thus is not controlled under the CSA. Conversely, tissue culture and any other genetic material derived or extracted from the cannabis plant having a delta-9-tetrahydrocannabinol concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marihuana.

Shane Pennington, Esq.

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If you have any further questions, please contact the Drug and Chemical Evaluation Section at [DPE@usdoj.gov](mailto:DPE@usdoj.gov) or (571) 362-3249.

Sincerely,

Terrence L. Boos, Ph.D., Chief  
Drug & Chemical Evaluation Section  
Diversion Control Division

Cc: New York Division