



**U. S. Department of Justice**  
Drug Enforcement Administration  
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Springfield, Virginia 22152

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*www.dea.gov*

May 13, 2024

Mr. Shane Pennington  
Porter Wright Morris & Arthur LLP  
2020 L Street, NW Suite 600  
Washington, D.C. 20006

Dear Mr. Pennington:

This is in response to your letter dated April 25, 2024, in which you requested the control status of tetrahydrocannabinolic acid (THCA) under the Controlled Substances Act (CSA). For THCA, we are assuming THCA is referencing delta-9-THCA. The Drug Enforcement Administration (DEA) conducted a review of the CSA and its implementing regulations with regard to these questions.

The CSA classifies tetrahydrocannabinols (such as THCA) as controlled in schedule I. 21 U.S.C. § 812, Schedule I(c)(17); 21 CFR 1308.11(d)(31). Subject to limited exceptions, for the purposes of the CSA, the term “tetrahydrocannabinols” means those “naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant.” 21 CFR § 1308.11(d)(31). Thus, tetrahydrocannabinols synthetically produced from non-cannabis materials is controlled under the CSA as a “tetrahydrocannabinol.”

The CSA, however, excludes “hemp” from the definition of marijuana and the classification of tetrahydrocannabinols in Schedule I. 21 U.S.C. 802(16)(B)(i); 21 U.S.C. 812, Schedule I(c)(17). 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, naturally occurring tetrahydrocannabinols extracted from the cannabis plant that have a delta-9-tetrahydrocannabinol (delta-9-THC) concentration of not more than 0.3 percent on a dry weight basis meet the definition of “hemp” and thus are not controlled under the CSA. Conversely, a naturally derived cannabinoid having a delta-9-THC concentration more than 0.3 percent on a dry weight basis is controlled in schedule I under the CSA as marijuana.

In regards to THCA, Congress has directed that, when determining whether a substance constitutes hemp, the delta-9-THC concentration is to be tested “using post-decarboxylation or other similarly reliable methods.” 7 U.S.C. § 1639p(a)(2)(A)(ii); 7 U.S.C. § 1639q(a)(2)(B). The “decarboxylation” process converts delta-9-THCA to delta-9-THC. Thus, for the purposes of

enforcing the hemp definition, the delta-9-THC level must account for any delta-9-THCA in a substance. Accordingly, cannabis-derived THCA does not meet the definition of hemp under the CSA because upon conversion for identification purposes as required by Congress, it is equivalent to delta-9-THC.

If you have any further questions, please contact the Drug and Chemical Evaluation Section at [DPE@dea.gov](mailto:DPE@dea.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Boos'.

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

Cc: Washington Division Office