Drug Enforcement Administration, Justice

§ 1308.34 Exempt anabolic steroid products.

The list of compounds, mixtures, or preparations that contain an anabolic steroid that have been exempted by the Administrator from application of sections 302 through 309 and 1002 through 1004 of the Act (21 U.S.C. 822–829 and 952–954) and §§1301.13, 1301.22, and 1301.71 through 1301.76 of this chapter for administrative purposes only may

as to whether such product which contains an anabolic steroid should be considered for exemption from certain portions of the Controlled Substances Act. On receipt of the recommendation of the Secretary, the Administrator shall make a determination as to whether the evidence submitted or otherwise available sufficiently establishes that the product possesses no significant potential for abuse. The Administrator shall issue and publish in the Federal Register his order on the application, which shall include a reference to the legal authority under which the order is issued, and the findings of fact and conclusions of law upon which the order is based. This order shall specify the date on which it will take effect. The Administrator shall permit any interested person to file written comments on or objections to the order within 60 days of the date of publication of his order in the Federal Register. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke, or amend his original order as he determines appropriate.

(e) The Administrator may revoke any exemption granted pursuant to section 1903(a) of Public Law 101–647 by following the procedures set forth in paragraph (d) of this section for handling an application for an exemption which has been accepted for filing.

§ 1308.35 Exemption of certain cannabis plant material, and products made therefrom, that contain tetrahydrocannabinols.

(a) Any processed plant material or animal feed mixture containing any amount of tetrahydrocannabinols (THC) that is both:

(1) Made from any portion of a plant of the genus Cannabis excluded from the definition of marijuana under the Act [i.e., the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other 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] and

(2) Not used, or intended for use, for human consumption, has been exempted by the Administrator from the application of the Act and this chapter.

(b) As used in this section, the following terms shall have the meanings specified:

(1) The term processed plant material means cannabis plant material that has been subject to industrial processes, or mixed with other ingredients, such that it cannot readily be converted into any form that can be used for human consumption.

(2) The term animal feed mixture means sterilized cannabis seeds mixed with other ingredients (not derived from the cannabis plant) in a formulation that is designed, marketed, and distributed for animal consumption (and not for human consumption).

(3) The term used for human consumption means either:

(i) Ingested orally or

(ii) Applied by any means such that THC enters the human body.

(4) The term intended for use for human consumption means any of the following:

(i) Designed by the manufacturer for human consumption;

(ii) Marketed for human consumption;

(iii) Distributed, exported, or imported, with the intent that it be used for human consumption.

(c) In any proceeding arising under the Act or this chapter, the burden of going forward with the evidence that a material, compound, mixture, or preparation containing THC is exempt from control pursuant to this section shall be upon the person claiming such exemption, as set forth in section 515(a)(1) of the Act (21 U.S.C. 885(a)(1)). In order to meet this burden with respect to a product or plant material that has not been expressly exempted from control by the Administrator pursuant to §1308.23, the person claiming the exemption must present rigorous scientific evidence, including well-documented scientific studies by experts trained and qualified to evaluate the effects of drugs on humans.

§ 1308.41 Hearings generally.

In any case where the Administrator shall hold a hearing on the issuance, amendment, or repeal of rules pursuant to section 201 of the Act, the procedures for such hearing and accompanying proceedings shall be governed generally by the rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. 551–559) and specifically by section 201 of the Act (21 U.S.C. 811), by §§1308.42–1308.51, and by §§1316.41–1316.67 of this chapter.

§ 1308.42 Purpose of hearing.

If requested by any interested person after proceedings are initiated pursuant to §1308.43, the Administrator shall hold a hearing for the purpose of receiving factual evidence and expert opinion regarding the issues involved in the issuance, amendment or repeal of a rule issuable pursuant to section...