



The Herb Specialists

March 26, 2011

Stephanie Chandler
Regulatory Policy Division
Office of Controlled Substances
Health Canada
Ottawa
By email: OCS.Policy.and.Regulatory.Affairs@hc-sc.gc.ca

Re: Adding *Salvia divinorum* to Schedule III of the Controlled Drugs and Substances Act

Dear Ms. Chandler,

For over 40 years Richters Herbs has specialized in growing and selling live herb plants and seeds. We carry over 1000 varieties having culinary, medicinal or aromatic uses. We also carry plants and seeds for a number of plants that have religious or historical significance. We supply our plants and seeds to home gardeners, herbalists, rare plant collectors, museums, university research labs, commercial growers, and others worldwide.

We have grown and sold *Salvia divinorum* plants for over a decade. It is one of 32 varieties and species of *Salvia* that we sell, all of which have culinary, aromatic, medicinal or cultural uses. For example, we grow white sage, *Salvia apiana*, which is sacred to First Nations peoples in both Canada and the United States and is used for ceremonial purposes.

Salvia divinorum is a sacred herb of the Mazotec Indians of southern Mexico. I personally visited the state of Oaxaca where this and other unique herb plants grow in order to understand the roles these plants play in these traditional societies. There is no doubt in my mind that *Salvia divinorum* is an important plant with religious significance.

The *Salvia* genus is horticulturally significant. Most species, including *Salvia divinorum*, have attractive flowers. The common garden varieties are well known annual bedding plants. There are plant collectors who specialize in growing the plants of this genus and there is a considerable effort to develop new varieties through hybridization. There is a Yahoo group mailing list and several websites devoted to the cultivation and study of *Salvia*. Richard Dufresne is a U.S. collector and breeder who has spoken in Canada on the many varieties and species.

It is proposed that *Salvia divinorum* live plants be added to Schedule III along with the putative active constituents, the dried leaves, and concentrated extracts thereof. It is our position that live plants and seeds ought not be added to Schedule III. We believe that adding *Salvia divinorum* plants to Schedule III will 1) deny the right to grow the plant for its religious, cultural or historical significance; 2) deny the right of plant collectors to grow a horticulturally important member of the

Goodwood, Ontario, L0C 1A0 Canada

Tel: 1.905.640.6677 Fax: 1.905.640.6641 Web: www.richters.com Email: admin@richters.com

Salvia; and 3) deny the right of breeders to use the plant as breeding stock for the development of novel ornamental *Salvia* hybrids.

We can tell you that the vast majority of our *Salvia divinorum* customers are not ordering the plant for personal psychoactive use. An indication of this is the fact that 88% of orders received over the past four years included other plants such as other sages and other members of the Lamiaceae.

It is our impression that neither the fresh nor dried leaves are in common use for psychoactive purposes. Those who are using “salvia” for psychoactive purposes are in fact using concentrated powdered extracts and isolates unnaturally high in salvinorin A. These products are being sold online and in stores that specialize in the products and paraphernalia associated with psychoactive drugs. Even if dried leaves are sometimes used for psychoactive reasons they are not strong enough in their raw form and must to be “fortified” by infusing them with exogenous salvinorin A in order to meet market expectations.

We have noticed that regulators often take the expedient approach of banning all forms of a plant when in reality only a constituent or derivative compound thereof is presenting public safety problems. We have seen this sledgehammer approach manifest in the regulation of herbs under the *Natural Health Products Regulations*. Kava and ephedra are recent examples of inappropriate application of regulatory force in excess of the public safety risks that the regulations seek to mitigate. In those and other cases, regulatory expediency effectively led to the ban of perfectly safe herbs in the raw dried form, when in fact commercial products containing purified isolates at unnaturally high levels caused the original public safety concerns. We believe regulators have a duty to regulate in a manner that avoids compromising the rights of Canadians who are not at risk. Regulatory expediency ought not to trump the honest right of those who wish to grow plants like *Salvia divinorum*.

There is another reason why we believe *Salvia divinorum* live plants should not be banned. We believe that it is morally wrong for humans to ban any living form, including plants. If every country banned live plants of *Salvia divinorum* the endgame for the species would be its extermination from the face of the earth. Given that many countries have already banned the plant, and that more appear to be considering bans, the complete extermination of the species is not out of the question. Even in its natural habitat in Oaxaca, Mexico, *Salvia divinorum* is not an abundant species, nor is it particularly easy to grow, and is thus at risk of extinction as more countries impose bans.

If it is proved that current “salvia” use presents an unacceptable public safety risk, we recommend that only the following should be considered for addition to Schedule III: 1) purified constituents such as salvinorin A, 2) concentrated leaf extracts, and 3) fortified dry leaves. We recommend that live plants remain unequivocally exempt.

We appreciate the opportunity to submit our comments in this consultation. Please include us on any informational lists related to this issue.

Yours sincerely,

Conrad Richter
President