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To: ALL INTERESTED PARTIES

Health Canada is pleased to inform you that the latest release of the document entitled "Guidance on the Processing and Distribution of Semen for Assisted Conception Regulations" (Guidance Document) is now available on the Health Products and Food Branch Inspectorate website at the following address:

www.hc-sc.gc.ca/hpfb-dgpsa/inspectorate

This Guidance Document contains the recommended practices and mandatory requirements of the *Processing and Distribution of Semen for Assisted Conception Regulations* (Semen Regulations) and the Health Canada Directive: "Technical Requirements for Therapeutic Donor Insemination" (Directive). This document has been revised to further clarify and provide guidance on acceptable practices that should facilitate compliance with the requirements of the Semen Regulations and the Directive. Amendments were introduced to the following sections of the Guidance Document: Section 10 - Laboratory Controls and Section 11 (1) - Labelling of the Semen Regulations. These amendments address off-site collection of donor semen and provide additional guidance on the requirement for the processor to be able to establish a link between the donor, the container of donor semen and the corresponding sample.

Inquiries regarding this document can be addressed to the Compliance and Enforcement Coordination Division, by fax at (613) 946-5636 or by e-mail at BTOX_STOX@hc-sc.gc.ca.

Further information on the regulation of donor semen for assisted conception is also available on the Inspectorate website.

Yours sincerely,

Original signed by
Kim Dayman-Rutkus (for)

Jean Lambert
Director General

Health Canada
Health Products and Food Branch

OUR MANDATE:

To promote good nutrition and informed use of drugs, food, medical devices and natural health products, and to maximize the safety and efficacy of drugs, food, natural health products, medical devices, biologics and related biotechnology products in the Canadian marketplace and health system.

Health Products and Food Branch Inspectorate

Guidance on the Processing and Distribution of Semen for Assisted Conception Regulations

Supersedes	GUI-0041 version 2 (July 2002)
Date issued	July 2004
Date of implementation	September 1, 2004

IMPORTANT NOTE: This guidance document is not intended to cover every conceivable case and will be subject to periodic review and update. It is **mandatory** that all processors, importers and distributors of donor semen intended for use in assisted conception in Canada comply with the ***Processing and Distribution of Semen for Assisted Conception Regulations*** (Semen Regulations) and the referenced sections of the Health Canada Directive, ***Technical Requirements for Therapeutic Donor Insemination*** (Directive). The practices outlined in this document reflect both the mandatory minimal requirements of the Semen Regulations and the Directive, as well as recommended practices. Refer to the Semen Regulations and the Directive for all mandatory practices.

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A. PREFACE

Semen for assisted conception is classified as a drug and has been regulated under the authority of the ***Food and Drugs Act*** (FDA) and the ***Processing and Distribution of Semen for Assisted Conception Regulations*** (Semen Regulations) since June 1, 1996. The Semen Regulations reference clauses 2 to 5 of the Health Canada Directive entitled ***Technical Requirements for Therapeutic Donor Insemination*** (Directive). The referenced sections of the Directive, entitled "Exclusions", "Work-Up", "Repeat Screening & Quarantine" and "Microbiology", set forth requirements for donor screening and infectious disease testing aimed at reducing the potential risk of transmitting infectious agents through the use of donor semen in assisted conception. The requirements set out within the Directive have force of law due to the fact that they are incorporated by reference into the Semen Regulations.

This document was developed by Health Canada in an effort to state acceptable practices that should facilitate compliance with the above-noted Act, Regulations and Directive. During establishment inspections and other regulatory activities carried out under the authority of section 23 of the FDA, this document will be used as a guide in assessing compliance. This guidance document is not intended to cover every conceivable case and will be subject to periodic review and update. For a copy of the latest version, please refer to the Health Canada website:

http://www.hc-sc.gc.ca/hpfb-dgpsa/inspectorate/blood_donor_semen_e.html

It is mandatory that all processors, distributors and importers of donor semen intended for use in assisted conception in Canada comply with the Semen Regulations and the Directive. The practices outlined in this document reflect both the mandatory minimal requirements of the Semen Regulations and the Directive, as well as recommended practices.

B. SCOPE

The Semen Regulations and the referenced sections of the Directive are aimed at preventing the transmission of infectious disease to recipients of donor semen and their offspring. The Guidance on the Processing and Distribution of Semen for Assisted Conception Regulations (Guidance Document) outlines in plain language the steps to be taken in order to meet the regulatory requirements, and demonstrate compliance with these requirements.

C. GLOSSARY OF TERMS

ADVERSE REACTION: A noxious or unintended response to donor semen which occurs with use and includes any undesirable patient effect suspected to be associated with the donor semen use.

COMPLIANCE: The state of conformity of a regulated entity (including a corporation, institution, individual or other legal entity) or product with a legislative or regulatory requirement or a recognized standard.

CONTAINER: A straw, vial, ampoule or similar receptacle used to contain semen, that is in direct contact with the semen.

DIRECTIVE: The Directive entitled, *Technical Requirements for Therapeutic Donor Insemination*, published by the Department of Health, Ottawa, July 2000

DISTRIBUTOR: A person or establishment that sells/distributes donor semen for use in assisted conception. A physician who uses donor semen in the performance of assisted conception is also considered a distributor.

DONOR: A man who donates sperm/semen for use in assisted conception.

ENFORCEMENT: The range of actions that may be taken to induce, encourage, or compel observance of a legislative requirement.

ESTABLISHMENT: A person, including an association or partnership, who under their own name or under a trade name, or other name processes, distributes and/or imports donor semen for use in assisted conception.

EXPORTER: A person or establishment that distributes donor semen to a foreign country.

FOOD AND DRUGS ACT (FDA): A federal statute regulating the health and safety of food, drugs, cosmetics, and medical devices. The Minister of Health is responsible for the administration of the Act.

GUIDANCE DOCUMENT: Clarifying and descriptive document which informs users of regulations. It should be noted that the guidance document is not a standard; it outlines in plain language what steps are to be taken to meet regulatory requirements. The guidance document may, however, exceed regulatory requirements in some respect.

IMPORTER: A person or establishment who imports donor semen from a foreign country for use in the performance of assisted conception.

INSPECTOR: A person designated under section 22(1) of the Food and Drugs Act.

LOOKBACK: A procedure in which previous donations from a donor subsequently found to have a transmissible infection are identified and follow up activities are undertaken to notify affected individuals. (See also Traceback)

MEDICAL DIRECTOR: A licensed physician having the responsibility for all medical and technical procedures applicable to the processing and distribution of donor semen for Therapeutic Donor Insemination (TDI), including approving SOPs, and ensuring that SOPs are applied by qualified staff.

PHYSICIAN DESIGNATE: A licensed physician designated by the Medical Director.

PROCESSOR: A person or establishment who collects, tests, prepares, preserves, labels and stores semen for use in assisted conception.

QUARANTINE: Effective restriction of the availability of material or product for use or distribution by the establishment.

> **NOTE:** Semen is to be held under quarantine in an establishment for the purposes of an investigation and/or as a regulatory requirement for the collected semen which is to be quarantined for a minimum of 180 days following its collection.

REGULATIONS: A form of law, often referred to as delegated or subordinate legislation. Regulations have the same binding effect as an Act and usually state rules that apply generally, rather than to specific persons or things. Regulations are not made by Parliament, but are made by persons or bodies to whom Parliament has delegated authority.

SEIZURE: Seizure is a measure which effectively deprives an individual of the ability to freely use or dispose of their property.

STANDARD OPERATING PROCEDURE (SOP): A written procedure, approved by the Medical Director or Physician Designate. Quality procedures control activities. A well defined procedure controls a logically distinct set of activities which are designed to accomplish a specific task or tasks. It is concerned with how to achieve a task, rather than what is to be achieved. Such a procedure precisely defines the work that should be done, and explains how it should be done, who should do it, and under what circumstances. In addition, it explains what authority and what responsibility has been allocated, which supplies and materials should be used, and which documents and records must be used to carry out the

work.
TRACEBACK: The process of investigating a report of a suspected insemination-associated infection in order to identify a potential implicated donor. (See also Lookback)

VOLUNTARY DETENTION: A voluntary detention is an agreement between an establishment and Health Canada to maintain control of a particular product. While some legislation provides authority for product seizure or detention, a voluntary detention may be appropriate if Health Canada is confident the company will comply with the conditions of the agreement.

> **NOTE:** Health Canada may negotiate a voluntary detention of a non compliant product while waiting for a Health Hazard Evaluation (HHE) or while the company is determining an appropriate course of action (i.e. destruction). Health Canada will monitor the effectiveness of a detention and may take other enforcement action, e.g. seizure, as appropriate.

ABBREVIATIONS:

AIDS	Acquired Immuno-Deficiency Syndrome
CFAS	Canadian Fertility and Andrology Society
CJD	Creutzfeldt-Jakob Disease
CMV	Cytomegalovirus
DSSAP	Donor Semen Special Access Programme
FTA-ABS	Fluorescent Treponemal Antibody Absorption Test
HBcAg	Hepatitis B Core Antigen
HBsAg	Hepatitis B Surface Antigen
HBV	Hepatitis B Virus
HCV	Hepatitis C Virus
HIV	Human Immunodeficiency Virus
HTLV	Human T-cell Lymphotrophic Virus
IgG	Immune Globulin G
IgM	Immune Globulin M
MHA-TP	Microhemagglutination for *Treponema pallidum*
NAT	Nucleic Acid Test
RPR	Rapid Plasma Reagin (screening test for syphilis)
TDI	Therapeutic Donor Insemination
VDRL	Venereal Disease Research Laboratory (screening test for syphilis)
FDA	Food and Drugs Act
FDR	Food and Drugs Regulations

D. REQUIREMENTS FOR PARTICULAR ACTIVITIES

WHAT SECTION(S) APPLY TO MY ESTABLISHMENT?

The table below indicates the particular sections of the Semen Regulations that apply to each of the identified activities for establishments involved in assisted conception. Processors, importers and distributors all have clearly defined obligations set out in the Semen Regulations.

The guidance document is structured based on the activity of the establishment. In cases where an establishment is involved in more than one activity (ie. process and import), they are to comply with the requirements detailed in the sections that apply to each of those activities. **Please note that all establishments are considered to be distributors.**

PROCESSORS, IMPORTERS and DISTRIBUTORS are expected to be familiar with and understand **all** sections of the Semen Regulations and the Directive.

ALL ESTABLISHMENTS:

- are to understand and comply with the requirements detailed in section *E. GENERAL REQUIREMENTS*

DISTRIBUTORS:

- are to comply with the requirements specified in section *I. DISTRIBUTORS*
- note that there is a distinction made between establishments that distribute for further distribution and those that distribute directly to patients (ie. physicians) [Refer to the relevant section below for more details]

PROCESSORS:

- are to comply with the requirements detailed in section *H. PROCESSORS*
- are required to meet specific notification requirements detailed in section *G. PROCESSORS AND IMPORTERS*

IMPORTERS:

- are to comply with the requirements detailed in section *F. IMPORTERS*.
- are to be able to demonstrate compliance with all processing requirements (section *H. PROCESSORS*), in addition to those that apply to importing and distribution.
- are required to meet specific notification requirements detailed in section *G. PROCESSORS AND IMPORTERS*.
- are the Canadian legal agents of the donor semen they import into Canada (this means that Canadian importers have the responsibility to ensure that the semen donations they import satisfy the requirements of the Semen Regulations and the referenced sections of the Directive).

TABLE INDICATING REQUIREMENTS FOR ALL ACTIVITIES

Sections of the Regulations	Processor	Importer	Distributor	Refer to section of Guidance Document entitled
1 - Interpretation	X	X	X	GENERAL REQUIREMENTS
2 - Application	X	X	X	GENERAL REQUIREMENTS
3 - FDR	X	X	X	GENERAL REQUIREMENTS
4 - Prohibition	X	X	X	GENERAL REQUIREMENTS
5 - Prohibition		X		IMPORTER
5.1 - Exception	X	X	X	GENERAL REQUIREMENTS
6 - Notice	X	X		PROCESSOR & IMPORTER
7 - Notice	X	X		PROCESSOR & IMPORTER
8 - Notice	X	X		PROCESSOR & IMPORTER
9 - Screening	X			PROCESSOR
10 - Laboratory Controls	X			PROCESSOR
11(1) - Labelling	X			PROCESSOR
11(2) - Labelling	X	X	X	DISTRIBUTOR
12 - Records	X			PROCESSOR
13 - Records		X	X	DISTRIBUTOR
14 - Tracing of Semen			X	DISTRIBUTOR
15(1) - Tracing of Semen	X			PROCESSOR
15(2) - Tracing of Semen	X	X	X	ALL
15(3) - Tracing of Semen	X			PROCESSOR
16 - Tracing of Semen	X			PROCESSOR
17 - Tracing of Semen	X	X	X	ALL
18 - Tracing of Semen	X			PROCESSOR
19 - Special Access Application			X	DSSAP
20 - Authorization	X	X	X	DSSAP - Health Canada Requirements for Special Access Authorization
21(1) - Documentation	X	X	X	DSSAP
21(2) - Documentation		X		DSSAP

E. GENERAL REQUIREMENTS

Sections 1, 2 & 3 of Semen Regulations - *INTERPRETATION and APPLICATION*

DEFINITIONS

Section 1 of the Semen Regulations provides definitions of terms that are either used in the Semen Regulations or that are specific to the Semen Regulations and may not be familiar to all concerned. All establishments are to familiarize themselves with and understand these definitions as they apply to their activities.

Assisted conception, as defined by the Semen Regulations, is a reproductive technique performed on a woman for the purpose of conception, using semen from a donor who is not her spouse or sexual partner. It is to be demonstrated that the establishment has documented evidence regarding the source of semen (ie. there is to be a record clearly indicating the source of the semen donation -donor, spouse or current sexual partner). Donations made by a spouse or current sexual partner are exempt from the Semen Regulations.

REQUIREMENTS OF THE FOOD AND DRUGS ACT AND REGULATIONS

Section 3 of the Semen Regulations states that the following requirements of the *Food and Drugs Regulations (*FDR) **do not apply** in respect of semen:

- The provisions of Part A of the FDR in respect to the importing, labelling and packaging of drugs. The Semen Regulations provide specific requirements in respect of these matters. It is important to note that all other requirements of Part A of the FDR do apply

- Part C of the FDR, which includes requirements for Establishment Licencing, Good Manufacturing Practices, Drug Identification Numbers.

As well, under the *Food and Drugs Act* (FDA), donor semen that is intended for **export** only is exempt from the application of the Semen Regulations. Under Section 37 of the FDA and Section A.01.045 of the FDR, the FDA and regulations do not apply to any packaged food, drug, cosmetic or device not manufactured for consumption in Canada and not sold for consumption in Canada. In order for this exemption to apply, the package is to be marked in distinct overprinting with the word “Export” or “Exportation” and a certificate that the package and its contents do not contravene any known requirement of the law of the country to which it is or is about to be consigned is to be issued in respect of the package and its contents in prescribed form and manner. The certificate is to be signed and issued by the exporter in the form set out in Appendix III of the FDA & FDR.

It is important to note that under Section 23(1)(a) of the FDA, inspectors may examine and/or take samples of any record or specimen.

Section 4 and 5.1 of the Semen Regulations - *PROHIBITION and EXCEPTION*

PROHIBITION

Distribution of donor semen is prohibited where it has not been processed in accordance with the requirements of the Semen Regulations and the referenced sections of the Directive.

Semen is to be processed in accordance with the screening requirements set out in Section 9 of the Semen Regulations and the referenced sections of the Directive, and the requirements set out for laboratory controls and labelling in Sections 10 and 11 of the Semen Regulations. All donor semen collected for use in assisted conception is also to be quarantined for a minimum of 180 days to address the “window period” infections, i.e., the period between the time of the infection and the development of detectable levels of antibodies to the infectious agent.

To demonstrate compliance, establishments are to provide evidence that:

- ❑ the specimen has been processed in accordance with Sections 9 to 11 of the Semen Regulations
- ❑ the semen has been quarantined for a minimum of 180 days after the collection date
- ❑ the donor has been re-assessed against all exclusion criteria and re-tested for the required infectious agents/markers on new specimens obtained from the donor after the quarantine period
- ❑ the specimen and accompanying documents have been reviewed and compliance verified.

Semen is not to be distributed if it is required to be quarantined or destroyed. An establishment is to be able to provide evidence that a specimen was assessed for compliance prior to distribution.

EXCEPTION

Semen reserved for special access may only be distributed in accordance with an authorization obtained under the Donor Semen Special Access Programme (DSSAP).

F. IMPORTERS

Sections 5 and 5.1 of the Semen Regulations - *PROHIBITION AND EXCEPTION*

PROHIBITION

It is prohibited to import donor semen for distribution unless the requirements for the importation of donor semen outlined in section 5 of the Semen Regulations are met. It is important to note that the importer of donor semen is considered to be the legal agent of the semen donation in Canada. It is the responsibility of the Canadian importer to ensure that the semen donations that they import satisfy the requirements of the Semen Regulations and the referenced sections of the Directive. The importer is to request records and other evidence specified in *Section H* of this Guidance Document from the foreign processor to verify that the foreign processor has complied with all the applicable regulatory requirements. During an inspection, the importer is to provide any record(s) or other evidence from its foreign processor(s) that may be required by the inspector.

An importer is to demonstrate compliance by providing evidence that they have assessed the donor semen against the requirements of the Semen Regulations. Refer to the requirements described under section 4 of the Semen Regulations. The assessment is to include the tests conducted and the results obtained in respect of the donor and specimens (e.g. laboratory reports, screening questionnaires, etc.)

The outer shipping container in which the semen is transported is to clearly display, on the outside surface of that container:

- ❑ the name and business address of the processor
- ❑ a declaration signed by the processor or an authorized agent of the processor, certifying that the semen was processed in accordance with the Semen Regulations and the referenced sections of the Directive, and that the semen was quarantined for a minimum of 180 days

The required information may be included as an attached document(s) accompanying the container.

Note: Any additional information from the foreign supplier is to be available upon request at the importer site. All information provided is to be specific to a particular donor and lot (collection date). It is to be clear that the supporting documents link directly to a particular semen donation.

EXCEPTION

Donor semen may also be imported under the provisions of the DSSAP. The importer is to retain on file a copy of the Special Access Authorization if a donor semen specimen has been or will be imported under the provisions of DSSAP.

G. PROCESSORS AND IMPORTERS

Sections 6, 7 & 8 of the Semen Regulations - *NOTICE*

Establishments who process or import, or intend to process or import, semen for distribution are required to notify Health Canada, in writing, at least 10 days before the date on which they begin processing or importing semen. This will allow Health Canada to notify establishments of regulatory requirements, changes to the regulations, other relevant information and scheduled inspections. Health Canada will acknowledge the receipt of the notice in writing.

All establishments that cease to process or import semen are required to notify Health Canada, in writing, within 90 days after they have stopped processing or importing.

Establishments that have an inventory of donor semen that they have processed or imported (but are no longer processing or importing) will continue to be classified as a processor or importer, respectively, until that inventory is used, destroyed, or reclassified for other purposes outside the jurisdiction of the Semen Regulations (e.g. for research only). The one exception is when the establishment declares, in writing, that the donor semen in inventory will only be distributed after obtaining authorization via the Donor Semen Special Access Programme. In this case, these establishments will be reclassified as distributors for administrative purposes only as this affect the frequency of inspection: as processors or importers, the requirements of the Semen Regulations applicable to processors or importers must continue to be met.

Establishments are to inform Health Canada of any major changes within their establishments (e.g. Medical Director, facilities and contact information).

Where requested in writing by Health Canada, processors or importers of semen are to provide information by a specified date. Such information requests are for the purpose of establishing compliance with the Semen Regulations and the referenced sections of the Directive.

All notifications or information are to be sent to the address below and a copy is to be sent to your local BTOX Compliance Specialist:

Associate Director General
Health Products and Food Branch Inspectorate
Health Canada
Graham Spry Building, 2nd Floor
250 Lanark Avenue, A.L. 2003D
Ottawa, Ontario
K1A 0K9

H. PROCESSORS

Procedures employed to meet processing and tracing requirements described in this section are to be set out in the form of Standard Operating Procedures (SOPs) as required by section 12 (2) of the Semen Regulations. The processor is to maintain records of all activities actually performed throughout the stages of processing donor semen.

Section 9 of the Semen Regulations - *SCREENING*

Donor screening and testing provisions are intended to minimize the risk of transmitting infectious agents to recipients and their offspring.

All testing performed is to meet the requirements of the Directive. Where alternative tests are used, the establishments are to have evidence on file which demonstrates that the alternative tests are at least as

effective as those specified in the Directive. Health Canada may request supporting documentation for review.

Where the donor is rejected by the Medical Director or Physician Designate, all semen from that donor in inventory is to be destroyed.

Clause 2 of the Directive - *EXCLUSIONS*

Any healthy men not excluded on the basis of the criteria set out under the heading "Exclusions" in Clause 2 of the Directive are eligible to donate semen.

To demonstrate compliance, it is necessary to have on file:

- ❑ Documented evidence that an exclusion criteria questionnaire, covering all the exclusion criteria referred to in clause 2.1 of the Directive, was completed, signed and dated by the Medical Director (or a Physician Designate) and the donor before his acceptance in the program.

For semen processed prior to March 14, 2000:

- ❑ Documented evidence that an exclusion criteria questionnaire, covering all exclusion criteria of clause 6.1 of the Directive - Exclusion Criteria, was completed, signed and dated by the Medical Director (or a Physician Designate) and the donor before his acceptance in the program.

Clause 3 of the Directive - *WORK-UP*

Suitability of Donor

The "Work-up" stage determines whether the donor meets all the requirements of the Directive and thus is suitable. The suitability of a potential donor is determined by a number of elements, but not limited to: medical, social and sexual history, preliminary semen evaluation, physical examination and laboratory tests.

Questionnaire

Questionnaires are a means of determining donor suitability by a series of questions which profile the donor's medical, social and sexual history.

The responsibility for the preparation of the questionnaires rests with the Medical Director (MD) or a Physician Designate.

- ❑ All questions are to be answered by the prospective donor.
- ❑ The questionnaire is to be signed and dated by the prospective donor.
- ❑ The questionnaire is to be reviewed, signed, and dated by clinic interviewer(s).
- ❑ Any corrections, entry of information, or notation made by the interviewer during or after the original date the questionnaire was completed, is to be initialled and dated showing all changes made.

Donor Information Sheet

The Donor Information Sheet (DIS) informs the prospective donor of the infectious diseases that may be transmissible through the use of donor semen in assisted conception and the possible consequences to the recipient and any offspring.

Written information is to be provided so that the prospective donor is aware that:

- ❑ he is to be in good general health and free from diseases transmissible by semen
- ❑ he will be given an opportunity to ask questions and voice concerns

- he will be tested for infectious diseases - there will be notification of abnormal results to the donor and to the provincial Department of Health if mandatory under provincial law
- he has certain responsibilities under the donor program

The DIS is to instruct the prospective donor to inform the clinic if he is to develop:

- any illness which may affect the safety of the donation (e.g. HIV, Hepatitis, etc.)
- any information or history that he may have omitted during the screening process which he believes may compromise the safety of his donation
- any changes in social or sexual behaviour
- any other information that may impact on the safety of the donated semen

With regards to the DIS:

- The information is to be provided and explained to the prospective donor.
- The prospective donor is to sign a donor consent form which indicates that he understands the information provided on the DIS.
- Donor questionnaires and consent forms are to be maintained on file.

Preliminary Semen Evaluation

A preliminary evaluation includes, but is not limited to, the determination of the efficacy (motility, concentration, morphology) and the cryopreservation quality of the semen.

- Criteria for acceptance is to be developed by the Medical Director or Physician Designate.
- The processor is to maintain records of the preliminary semen evaluations.

Medical Interview

The medical interview determines donor suitability.

- The results of the physical examination and the identity of the personnel that conducted the examination are to be documented. The completed documents are to be signed, dated and retained on file.
- The Medical Director or Physician Designate is to review all elements of the medical interview and indicate whether the donor has been accepted or excluded.
- If the prospective donor is accepted, a unique identifier is to be assigned to the donor and confidentiality maintained.

Documentation

All the required elements specified in clause 3.4 of the Directive are to be maintained and made available for the inspector's review.

- The donor identifier is to be used to reference the donor to all tests, records and ultimately for tracking purposes to the recipient.
- Each facility is to keep accurate records using the donor identifier to permit tracking of semen from the donor to the recipient and vice versa.
- Records are to be prepared concurrently with each activity.
- Records are to include a signed document demonstrating that the Medical Director has accepted the donor into the program following a review of the complete file as detailed in Clause 3.4 of the Directive. See **Appendix A** - Acceptance of the Donor into the Semen Donation Program (Semen processed after March 14, 2000)

Laboratory Testing

Laboratory testing is an integral part of the "Work-up" stage and screening of the donor. A positive serological test allows the processor to reject or defer the donor immediately. It is the responsibility of

each processor and importer to ensure that testing has been conducted according to the requirements set out in the Directive.

- ❑ SOPs are to describe all infectious disease tests to be performed and explain what actions are to be taken when donors test positive for infectious disease agents (e.g., permanent deferral of HIV antibody positive donors and temporary deferral of CMV IgM positive donors).

- ❑ Records of all tests performed, results of testing and any interpretation of results are to be maintained.

- ❑ The establishment is to have a copy of the laboratory accreditation certificate (or equivalent).

- ❑ A complete list of all licenced test kits used is to be maintained by the establishment. This list is to include the name of the test kit, catalogue number, and the name of the manufacturer. The establishment is to ensure that a licence has been issued for each brand of test kit(s) used. It is recommended that the establishment request a copy of the licence or a written confirmation from the manufacturer of the test kit(s) or refer to the following address: http://www.mdall.ca/ which is a list of all licenced medical devices (including test kits).

- ❑ Where a licenced test kit is not used for microbiological testing, the establishment is to provide validation data for that test or method upon request. It is recommended that the establishment keep on file confirmation from the testing laboratory that the method has been validated.

- ❑ Where applicable, the processor is to have a written agreement with the testing laboratory in which the processor provides relevant information to the testing laboratory, including:

  - the tests to be performed for each sample (blood, semen, urine, etc.)
  - a stipulation that the laboratory follow the manufacturer's instructions and perform the tests within the limits and time frames suggested by the manufacturer
  - a service standard - length of time to receive results from the laboratory
  - a stipulation that the test kits used are to be licenced under the Canadian Medical Devices Regulations
  - where applicable, testing validation data
  - the method of reporting results to processor, including an interpretation of the results
  - personnel responsible for the release of testing results

- ❑ Potential donors who have tested positive for any sexually transmitted disease are to be informed immediately in writing and a copy of the written notice kept on file. Clinics are to be able to demonstrate the receipt of the written notice.

- ❑ All laboratory reports are to be kept on file.

- ❑ Records pertaining to archived serum samples are to be retained; this may include storage location and conditions, identification, traceability, etc.

For semen processed prior to March 14, 2000:

- ❑ All laboratory reports of infectious disease tests are to be kept on file to demonstrate compliance (Refer to the requirements specified under Clause 6.2.1 of the "Work-Up" section in the Directive).
- ❑ For all other requirements, **with the exception of infectious disease testing**, the establishment is to demonstrate that the semen was processed in accordance with either the CFAS 1996 Guidelines for TDI or the Directive (clause 6.4 of the Directive).

Clause 4 of the Directive - *REPEAT SCREENING & QUARANTINE*

Repeat Screening

There are two types of Repeat Screening: one is recommended for monitoring purposes (Clause 4.1 of the Directive) and the other is required after the semen has been quarantined for a minimum of 180 days and prior to distribution (Clause 4.2 of the Directive).

Repeat Screening for the Purposes of Monitoring

This Repeat Screening is intended for monitoring the donor's health and for the early detection of any infections that occur after the donor has been accepted into the program. The infectious disease tests are to be performed at least every 180 days (e.g. every month, every 3 months but at a **maximum** of 6 month intervals) using a new specimen from the donor.

As evidence of repeat screening for the purposes of monitoring, the processor is to retain on file:

- ❑ all laboratory reports of serological tests (clauses 4.1.1 and 4.1.2 of the Directive)
- ❑ records of the annual physical examination (clause 4.1.4 of the Directive)

Quarantine and Repeat Screening Prior to Distribution

This Repeat Screening is to be performed after the semen has been quarantined for a minimum of 180 days and prior to distribution. The 180-day quarantine period allows for seroconversion in the donor, and thereby addresses "window period" infections, i.e., the period between the time of infection and detection of antibodies against the infectious agent. The donor is to be re-evaluated on the basis of the exclusion criteria and infectious disease tests are to be performed using a new specimen from the donor.

As evidence of repeat screening after the quarantine period:

- ❑ The processor is to retain on file documented evidence that the donor semen has been cryopreserved and quarantined for a minimum of 180 days.
- ❑ The donor specimen is to be clearly identified as quarantined and systems are to be in place to prevent the release of such specimens.
- ❑ The processor is to retain on file records to demonstrate that the donor has been re-evaluated on the basis of the exclusion criteria of clause 2.1 (questionnaire).
- ❑ The processor is to retain on file all laboratory reports for serological tests (clause 4.2.2) performed on a new specimen from the donor.

Evaluation of Semen Safety and Release (Clause 4.3 of the Directive)

The Medical Director, who is responsible for the overall medical care and the evaluation of the safety of the tested semen, or the Physician Designate, is to determine and document whether the semen may be released for distribution.

- ❑ Where applicable, the establishment is to have a document signed by the Medical Director, identifying an alternate Physician Designate and his/her roles and responsibilities.
- The establishment is to have a signed document demonstrating that the Medical Director, or his or her Physician Designate, has released semen donations for distribution following a review of the complete file as detailed in clause 4.3.1 of the Directive. See **Appendix B** - Release of Semen Donations for Distribution (Semen processed after March 14, 2000)
- Evidence that the safety of the semen was confirmed prior to the semen being released (Clause 4.3.2 of the Directive).

For semen processed prior to March 14, 2000

- All laboratory reports of infectious disease tests are to be kept on file to demonstrate compliance (Refer to the requirements specified under clause 6.2.2 Repeat Screening and Quarantine in the Directive).
- For all other requirements, **with the exception of infectious disease testing**, the establishment is to demonstrate that the semen was processed in accordance with either the CFAS 1996 Guidelines for TDI or the Directive (clause 6.4 of the Directive).

Clause 5 of the Directive - *MICROBIOLOGY*

Microbiological Testing

Microbiological tests are to be performed on appropriate specimen(s) collected at the time of each donation.

- Reports (test results and interpretation) for *Chlamydia trachomatis and Neisseria gonorrhoea* testing which indicate the source of specimen, date of collection (which is to be identical to the date of donation), and identification of the donor (unique donor ID is preferable) are to be maintained on file.
- Reports of the General Culture and Sensitivity evaluation are to be maintained on file. The testing laboratory and/or the physician who examined the donor are to determine whether any organism isolated is considered normal flora. This determination is to be documented.

- When antibiotics are used in the cryoprotectant medium, this is to be identified on the label of the container and documented in the establishment's records.

For semen processed prior to March 14, 2000

- All laboratory results/reports of the microbiological tests are to be on kept file to demonstrate compliance (Refer to the requirements specified under clause 6.3 Microbiology in the Directive).
- For all other requirements, **with the exception of infectious disease testing**, the establishment is to demonstrate that the semen was processed in accordance with either the CFAS 1996 Guidelines for TDI or the Directive (clause 6.4 of the Directive).

Section 10 of the Semen Regulations - *LABORATORY CONTROLS*

To minimize the possibility of contamination, surfaces, containers and other objects that come in contact with the semen during processing are to be sterile or clean and disposable, and are to be of appropriate material and type.

- The establishment is to be able to demonstrate that the above requirements are met.
- The establishment is to have evidence of a sanitation and maintenance program for the laboratory. A cleaning schedule is to be developed and followed. A detailed cleaning log is to be maintained.
- The establishment is to follow manufacturers' instructions when using materials/equipment for processing donor semen.
- Laboratory staff are to be appropriately trained and follow good laboratory practices.
- Sperm maintenance media and other Medical Devices are to be licenced in Canada.
- Donor semen is to be collected within the premises of the establishment.

Section 11 (1) of the Semen Regulations - *LABELLING*

Labelling is critical to ensure positive and unique identification of the specimen. Labelling is also critical during the processing of semen.

❑ The establishment is to use permanent ink (preferably black ink).

- ❑ The establishment is to label each container of semen with the donor's unique identifier and the date of donation. The preferred standard format for recording dates is YYYY-MM-DD although this is not a required format.
- ❑ Each container of donor semen is to be accompanied by documentation that identifies the name and business address of the processor. The information is to be linked specifically to the specimen being distributed.
- ❑ The processor is to be able to establish a link between the donor, the container of donor semen and the corresponding sample. Records should include a signed document, for example an attestation, demonstrating that the sample donated belongs to the donor. Furthermore, such a document should be signed in the presence of a designated person from the establishment (Medical Director or designated person).

Section 12 of the Semen Regulations - *RECORDS*

Records are a critical component of any system. Records are documented evidence of compliance.

All processing activities are to be documented, signed and dated by the person performing that activity at the time that the activity was performed. Any correction, entry of information, or notation made after the original date the record was completed is to be initialled or signed and dated in such a way as to allow a reader to differentiate between the original and amended information. The reason for the change is to be documented as well.

A distributor may request additional information (e.g. test records) from a processor or importer to further assess and establish the compliance of donor semen. The distributor must be able to demonstrate that the donor semen meets the requirements of the Semen Regulations and this can only be accomplished with the cooperation of the processor or importer.

- ❑ All medical records are to be kept indefinitely. All testing, screening and monitoring results and interpretation of results are to be retained according to Good Medical Practices.
- ❑ The date of each donation is to be documented.
- ❑ Records of problems, complaints, and corrective actions are to be maintained.
- ❑ Each dewar is to be clearly identified as to its contents (e.g. Quarantined, DSSAP etc.)
- ❑ Each container of semen is to be clearly identified as either in quarantine, detained or for distribution (e.g. log book)
- ❑ An accurate list of all inventory including unique donor identification (Donor ID and Lot number and/or collection date) and the number of containers collected is to be maintained.
- ❑ The reason for destruction or other disposition (e.g. distribution for further distribution) of donor semen is to be documented for each container.
- ❑ Inventory reconciliation of donor specimens collected versus donor specimens distributed is to be conducted.
- ❑ A copy of the DSSAP authorization is to be maintained if semen was distributed under DSSAP.
- ❑ If the processor is a physician who uses the donor's semen in the performance of assisted conception, he or she is to:
  - ❑ Be able to effectively and efficiently trace semen that was used in assisted conception. There is to be a clear link between the recipient and the specific donor specimen. Log sheets that detail donor ID, lot number, processor, number of vials, date received, date used and recipient ID are to be used.
  - ❑ Retain the patient's written consent to use donor semen in cases where the semen was distributed in accordance with DSSAP.

Standard Operating Procedures

Standard Operating Procedures (SOPs) provide personnel with instructions or directions so that activities are performed and documented consistently and in compliance with regulatory requirements. An establishment is to maintain and follow SOPs for the processing and tracing of semen. SOPs are to cover the following topics:

- screening
- collection and quarantine
- testing
- preparation
- preservation
- packaging
- labelling
- storing
- release of semen from quarantine
- distribution
- destruction of semen
- tracing of semen/investigation (see details below)
- errors and accidents

A Standard Operating Procedure (SOP) for the tracing of semen is to address the following matters:

- ❑ how to record any information received from physicians which implicates semen in the transmission of infectious disease (e.g. adverse reactions)
- ❑ what information is required from distributors and the format in which the information is to be submitted (e.g. copies of lab results, recipient symptoms etc.)
- ❑ the roles and responsibilities of all personnel involved (eg. who will send out the notice to distributors, who searches files to determine where the specimen(s) has been sent , who reconciles inventory, and to whom the specimen(s) has been distributed..etc.)
- ❑ the format of the letter to be is sent to donors, other distributors, including who is to sign the letter
- ❑ how to notify donors, Health Canada and distributors (e.g. how the notification letter is to be sent - mail, fax, telephone conversation followed by letter etc.)
- ❑ any requirements for maintaining on file a record of verbal contacts and written communication
- ❑ a protocol to record the transfer of semen specimens to different clinics (e.g. in those cases where a recipient moves and transfers semen storage to another clinic; the processor is to know where all semen has gone - by lot number and donor description)
- ❑ action(s) to be taken if semen is not contaminated, is contaminated or is inconclusive (e.g. where it is not possible to determine whether semen is contaminated or not)
- ❑ how to collect semen specimens from distributors and how to destroy specimens.
- ❑ how to verify the identification codes for containers of semen (e.g. check and signature of two individuals)
- ❑ how to reconcile specimens produced with specimens collected, used, quarantined, destroyed or reserved for DSSAP
- ❑ how to keep records of semen specimens destroyed (e.g. where destroyed by someone else, how is this tracked? If destroyed by a biohazardous waste company what records are kept to verify destruction?)

Sections 15(1)&(3), 16 & 18 of the Semen Regulations - *TRACING OF SEMEN*

Where a processor receives a notice from a physician who suspects transmission of an infectious agent, or has other reason to believe that donor semen is contaminated, the processor is to take action, without delay:

- ❑ to quarantine all semen of the same donor as a precaution so as to prevent transmission of an infectious agent to other recipients; and
- ❑ to conduct an investigation to determine whether the semen is contaminated by an infectious agent.

Pre-Investigation Measures

The following activities are to take place, without delay, and be documented to demonstrate compliance:

- ❑ identify the donor and quarantine all specimens in possession

- ❑ prepare a list of all semen specimens from that donor, specifying the identification codes on the containers of semen
- ❑ where applicable, determine to whom the semen was distributed for further distribution
- ❑ notify distributors, in writing, of the specific information about the investigation and which specimen(s) is to be quarantined. The notice is to be sent as soon as possible to prevent distribution of implicated containers of semen. The processor is to verify that all distributors have received the written notice and have quarantined the implicated containers of semen
- ❑ notify the donor of the semen, in writing, that an investigation is being conducted to determine whether semen that he donated is contaminated by an infectious agent, and naming the infectious agent. The donors is to be informed of any action required by him and also of his deferred status if he is currently donating

Note: Every reasonable attempt is to be made to contact the donor. Archived serum samples are to be collected so that when retesting is required, a sample is available.

Investigation

- ❑ During an investigation, a processor is to determine whether any other recipients are infected, the status of the donor's semen inventory and the location of the inventory from the same donor.
- ❑ Processors are to consider whether any additional tests are required to be performed on the donor, semen in inventory, or archived serum samples of donor and recipients. Testing is to meet the requirements of the Semen Regulations in order for the specimens to be distributed.
- ❑ A protocol is to be developed to describe the interpretation of laboratory results. A criteria is to be developed for acting on positive (reactive) results (e.g. how to proceed if there is a reason to believe that the results are false-positive).
- ❑ How to proceed if a donor specimen or lab report is lost. Information that is lost cannot be part of the donor record, therefore tests will have to be repeated and records are to be kept of all occurrences.
- ❑ Processors are to consider and be prepared to defend the depth of their investigation (lookback & traceback).

Exception

For semen that is distributed under the provisions of DSSAP, the processor is **not** required to take the measures set out under section 15(1) of the Semen Regulations by reason only that:

- a particular infectious agent other than the ones referred to under column 1 of section 20(1) of the Semen Regulations was not tested for in accordance with sections 4(1)(b) and 9(1)(a) of the Semen Regulations during processing; **or**
- the semen was not processed in accordance with section 10 of the Semen Regulations

Reports

- ❑ Within three days of the start of the investigation, Health Canada is to be notified that an investigation has been initiated - this initial report is to include the name of the infectious agent with which the semen is believed to be contaminated, the number of donors who donated semen that is believed to be contaminated and the number and identification codes of containers of semen attributable to each donor.

- ❑ Every 30 days after the start of the investigation, until the final report is submitted, Health Canada is to be provided with an update on the progress made in tracing the semen - updates are to include information as to the number of containers used, recovered, quarantined or destroyed, and the number of persons contacted.

- ❑ Upon completion of the investigation, processors are to notify and report back to Health Canada. The final report provided is to be detailed and is to indicate the results of investigation (include conclusions), specify any infectious agent(s), tests done, recipients tested, donor tests, follow-up and corrective actions taken, and detail the reconciliation of specimens (amount produced,

amount distributed, amount quarantined and by whom, amount destroyed and by whom). The final report is to be sent prior to the release of semen so that any concerns Health Canada may have are addressed before specimens are released and distributed.

All reports detailed above are to be sent to the address below and a copy is to be sent to your local BTOX Compliance Specialist:

Associate Director General
Health Products and Food Branch Inspectorate
Health Canada
Graham Spry Building, 2nd Floor
250 Lanark Avenue, A.L. 2003D
Ottawa, Ontario
K1A 0K9

Post-Investigation Measures

- ❑ Any protocol for re-entry of donors after the investigation is to be outlined.
- ❑ Any deferrals are to follow the exclusion criteria set out in the Directive. For example, if a donor is positive for a sexually transmitted disease, he is to be excluded from the donor program as per the Directive
- ❑ The processor is to document the rationale for release or destruction of samples.
- ❑ Donor files are to be updated as to the results of the investigation and the status of the donor and specimens.
- ❑ Inventory logs are to be updated.
- ❑ The processor is to summarize the results of the tests performed on the donor(s) and recipient(s)
- ❑ Document any corrective actions (e.g. Deferral of a donor or changes to the SOP that are required as a result of the investigation)
- ❑ The processor is to keep a copy of the written notice sent to the donor, indicating the results of the investigation. This notice is to contain any further instruction regarding future donation status (e.g. whether current donors have been deferred from donating or whether they can continue to donate).

Where it is determined that semen is not contaminated

- ❑ The semen may be distributed.
- ❑ The processor is to prepare a list containing the identification codes marked on the containers of the semen that is not contaminated.
- ❑ The processor is to notify each distributor, in writing, that the containers having the identification codes specified in the list may be distributed; and the processor may distribute the containers in their possession that have the identification codes specified in the list.

Where it is determined that semen is contaminated

- ❑ The semen is to be destroyed.
- ❑ The processor is to prepare a list with the identification codes marked on the containers of the semen that is contaminated.
- ❑ The processor is to **notify** each person that received the semen, in writing, that all quarantined containers having the identification codes specified in the list are to be collected by the processor for destruction or destroyed by the distributor.
- ❑ The processor is to **collect and destroy** the containers of semen that are contaminated.
- ❑ The processor is to **destroy** the containers of semen in quarantine in their possession that have the identification codes specified in the list.

Where the results of the investigation are inconclusive

- ❑ The semen may be destroyed or reserved for distribution under the DSSAP.
- ❑ The processor is to prepare a list with the identification codes marked on the containers of the semen that is found to be "inconclusive".
- ❑ The processor is to **notify** each person that received the semen, in writing, that all quarantined containers having the identification codes specified in the list:

  (1) may be destroyed or reserved by the distributor for distribution under the DSSAP, or

  (2) may be destroyed or reserved by the distributor for distribution under the DSSAP or may be kept in quarantine until collected by the processor.
- ❑ Where applicable, the processor is to **collect** any containers of semen as directed by the distributor.
- ❑ The processor may **reserve or destroy** any "inconclusive" semen in quarantine in their possession.

I. DISTRIBUTORS

Section 11(2) of the Semen Regulations - *LABELLING*

Distributors of semen are to provide evidence that specimens distributed are labelled with a unique identification code that enables the semen to be linked to the donor and to the date of donation (e.g. Donor 1234 with either date of collection or Lot# ABC). The distributor is to document that a verification was performed to ensure that the labelling information on the container is complete and linked to the documentation provided by the processor to attest compliance.

The name and business address of the processor is to accompany each container of semen distributed.

Section 13 of the Semen Regulations - *RECORDS*

Records are a critical component of any system. Records are documented evidence of compliance. All medical records are to be kept indefinitely.

Distributors are to have the following records in respect of each container of donor semen:

- ❑ the processor's name and business address
- ❑ the identification code marked on the container
- ❑ where donor semen is received from someone other than the processor, documents that identify the distributor of the semen from whom the semen was received
- ❑ **for all donor semen in inventory,** a ***statement*** (see below) that the container of semen was processed in accordance with the requirements of the Semen Regulations in force **at the time the semen was received**. Where there is a change in regulatory requirements, an updated statement is to be obtained from the supplier as soon as possible; semen is to be detained until the required updated statement is received and on file.
- ❑ **for semen distributed before December 1, 2000**, **evidence** that the container of semen was processed in accordance with the requirements of the Semen Regulations in force at the time of distribution
- ❑ **for semen distributed on or after December 1, 2000**, a ***statement*** (see below) that the container of semen was processed in accordance with the requirements of the Semen Regulations in force at the time of distribution. This statement is to include the date of donation,

tests performed in respect of the donor, dates and results of the tests and, if necessary an interpretation of the results

- ❑ **where the distributor is also a physician who uses donor semen in the performance of assisted conception**, a means to identify the woman on whom the assisted conception was performed. This means of identification is to provide the ability to effectively and efficiently trace semen that was used in assisted conception (lookback/traceback). There is to be a clear link between the recipient and the specific donor specimen. Log sheets that detail donor ID, lot number, processor, number of vials, date received, date used and recipient ID are to be used.

- ❑ where donor semen is collected by the processor for destruction or to be reserved for distribution under the DSSAP, the date the specimens are returned to the processor is to be documented.

The above mentioned ***statement*** is to:

- ❑ confirm that the semen was processed in accordance with the Semen Regulations
- ❑ confirm that the semen has been quarantined for a minimum of 180 days
- ❑ be signed and dated by the supplier
- ❑ specify the unique donor ID (donor ID, Lot number and/or collection date)
- ❑ specify the specimen collection date
- ❑ list all serological and microbiological tests performed, the date of testing and the interpretation of results for **the release of that specific specimen** (ie. the tests on or prior to the collection of that specimen and the tests 180 days or later from that date of collection). The method of testing (e.g. NAT, RPR, VDRL) is to also be indicated.
- ❑ identify the number of containers shipped

In addition to the above points, inventory reconciliation of donor specimens received versus donor specimens distributed is to be conducted and the reason(s) for destruction or other disposition of donor specimens is to be documented.

A distributor may request additional information (e.g. test records) from a processor or importer to further assess and establish the compliance of donor semen. The distributor must be able to demonstrate that the donor semen meets the requirements of the Semen Regulations and this can only be accomplished with the cooperation of the processor or importer. In addition, the distributor is to document the review of the records/specimen for compliance upon receipt of the specimen.

Additional requirements for donor semen distributed under DSSAP

For semen distributed under the provisions of DSSAP, the establishment is to have the following records on file:

- ❑ a copy of the authorization
- ❑ a copy of the declaration certifying that the semen has been processed in accordance with section 10 of the Semen Regulations.
- ❑ the date the semen was donated
- ❑ the tests performed in respect of the donor
- ❑ the dates and results of the tests
- ❑ interpretation of the results, if necessary
- ❑ patient's written consent to use the semen (**treating physician only**)

Sections 14, 15(2) and 17of the Semen Regulations - *TRACING OF SEMEN*

To ensure that implicated product is not distributed further (quarantined) and that investigations are initiated by the processor without delay, the distributor is to notify the processor when there are reasonable grounds to believe that transmission of an infectious agent has occurred.

To demonstrate compliance, distributors are to provide:

- ❑ evidence of quarantine of specimens in their possession

- ❑ a copy of the report advising the processor of possible transmission of infectious agent(s) and the identification code(s) implicated
- ❑ proof of receipt of report by processor
- ❑ evidence that the name and address of every person who received specimens for further distribution (ie. to other physicians/distributors) was provided to the processor

Notice of Investigation

The distributor will receive instructions from a processor regarding actions to be taken as a result of an investigation into potentially contaminated specimens. The distributor is to follow these directions.

Recipients (patients) of implicated donor semen are to be contacted and appropriate actions (including counselling and testing) are to be undertaken based upon the Medical Director's recommendation. The Medical Director is to request additional information from the processor regarding the implicated donor semen, if necessary, to determine its safety and appropriate action with respect to the patient.

To demonstrate compliance, distributors are to provide evidence that:

- ❑ implicated product was quarantined and/or destroyed
- ❑ where specimens were not destroyed, that instructions regarding its disposition received from the processor were followed. Records of product disposition are to be kept.

Note: Until a notice is received in writing from the processor, implicated semen is to be separated from released product and clearly identified as quarantined.

Where it is determined that semen is not contaminated

Where the processor sends a notice that the results of the investigation showed that the donor semen was not contaminated, the distributor may distribute the semen with the identification codes specified in the notice. The distributor is to verify that the correct samples have been released (e.g. two person check and sign-off). Donor semen inventory is to be reconciled.

To demonstrate compliance, the distributor is to provide evidence that:

- ❑ the release notice issued by the processor has been received and retained
- ❑ the Medical Director has assessed the information from the processor to verify that it is complete and that appropriate tests and follow-up actions have been performed before removing the product from quarantine

Where it is determined that semen is contaminated or the results of the investigation are inconclusive

Where the processor sends a notice that the results of the investigation showed that the semen is contaminated or were inconclusive, the distributor is required to take action as detailed by the processor.

To demonstrate compliance, the distributor is to provide evidence that:

- ❑ implicated semen has been quarantined and/or destroyed
- ❑ a written report was sent to the processor indicating for each identification code referred to in the notice, the number of containers received by the person and the number that were distributed or destroyed
- ❑ where the distributor decides **to return** the semen specimens to the processor, the distributor is to notify the processor in writing and retain a copy on file. Verifications are to be done to ensure that the appropriate specimens have been returned
- ❑ where the distributor decides **to destroy** the donor specimens rather than have the specimens collected by the processor, the distributor is to keep a record of their decision and document the destruction of the donor semen. Verifications are to be done to ensure that the appropriate specimens are being destroyed

- ❑ where the results of the investigation are inconclusive, the distributor may reserve the donor semen for special access distribution

J. DONOR SEMEN SPECIAL ACCESS PROGRAMME (DSSAP)

Sections 19, 20 & 21 of the Semen Regulations - *Donor Semen Special Access Programme*

The purpose of the Donor Semen Special Access Programme (DSSAP), administered by Health Canada, is to allow physicians to obtain access to donor semen for use in assisted conception that does not meet certain requirements of the Semen Regulations. The DSSAP is to be used to access donor semen in exceptional circumstances.

A Guidance Document prepared by Health Canada provides an overview of the provisions of the Semen Regulations which deal with the DSSAP and explains the application process for a DSSAP authorization to distribute semen that was not processed in accordance with paragraphs 4(1)(b), 9(1)(a) and section 10 of the Semen Regulations.

For a copy of the Guidance Document contact your regional BTOX Compliance Specialist or visit Health Canada's website: www.hc-sc.gc.ca search: *Therapeutic Products Programme Guidance, Donor Semen Special Access Programme, December 2000*

If you have any questions regarding the DSSAP, contact:

DSSAP
Blood, Tissues and Organs Division
Biologics and Radiopharmaceuticals Evaluation Centre
Biologic and Genetic Therapies Directorate
Health Canada
LCDC Building #6, AL 0603C3
Tunney's Pasture
Ottawa, Ontario K1A 0L2
Telephone: (613) 952-8318
Facsimile: (613) 941-5841
Email: DSSAP@hc-sc.gc.ca

K. ENFORCEMENT

Response to Non-compliance

Where non-compliance has been identified, the primary objective is to have the responsible establishment bring the product or process into compliance.

Health Canada will consider all enforcement options to determine the appropriate action(s) in response to non-compliance. In determining the nature and strength of enforcement action to be taken in response to non-compliance, the various circumstances of the case will be taken into account including the following:

- the risk to health and safety
- Health Canada priorities and available resources
- compliance history of the establishment
- whether the establishment acted with indifference or premeditation
- the degree of cooperation offered by the establishment to Health Canada officials once the problem was identified
- the likelihood that the same problem will reoccur

- the chances of success of the enforcement action being contemplated
- the need to maintain public confidence in the programs administered by Health Canada

Industry Responses

Where non-compliance is brought to the attention of an establishment by Health Canada or otherwise, it is the establishment's responsibility to take timely and appropriate action to comply with legislative and regulatory requirements.

Voluntary Disposals

A voluntary disposal is a decision by an establishment to destroy a non-compliant product. In considering whether to seek a voluntary disposal, Health Canada will consider the following factors:

- the degree of cooperation offered by an establishment on prior occasions
- whether the product will be rendered non saleable/usable
- whether the disposal can be monitored
- compliance with environmental legislation

Voluntary Detention

A voluntary detention is an agreement between an establishment and Health Canada to maintain control of a particular product. While some legislation provides authority for product seizure or detention, a voluntary detention may be appropriate if Health Canada is confident that the establishment will comply with the conditions of the agreement.

Health Canada may negotiate a voluntary detention to maintain the identity of a non compliant product while waiting for a health hazard evaluation or while the establishment is determining an appropriate course of action (i.e. disposal, return to processor).

Health Canada will monitor the effectiveness of a detention and may take other enforcement action, e.g. seizure, as appropriate.

Recalls

A recall is an action by an establishment to correct or remove from the market or workplace a non-compliant product that may represent a risk to the health or safety of consumers or workers. In some instances, Health Canada may ask an establishment to initiate the recall of a non-compliant product but the establishment is responsible for implementing the recall.

Health Canada will monitor the effectiveness of an establishment's recall. Where an establishment refuses to recall a product or the recall is deemed to be inadequate, Health Canada may take other action as appropriate, particularly where there may be a significant risk to health and safety.

Government Responses

Health Canada may use any of the enforcement options to achieve compliance. The objective is to achieve compliance using the most appropriate level of intervention.

When discussing non-compliance with an establishment, Health Canada will clarify what is necessary to achieve compliance. Except for specific legislative requirements, Health Canada will not dictate how compliance is to be achieved. It is the responsibility of the establishment to identify and implement action to ensure compliance.

Negotiated Compliance

Where Health Canada informs an establishment of non-compliance of which the establishment was not aware, and the establishment is willing to comply with the requirement, Health Canada will negotiate with

the establishment to establish an appropriate time frame for achieving compliance based on the following factors:

- the risk to health and safety
- the compliance history of the establishment
- the chances of success

Warnings

Health Canada may issue a warning to an establishment when it is believed that non-compliance has occurred or is continuing and the risk to human health or safety does not warrant stronger enforcement action. Health Canada will consider the compliance history of the establishment and any efforts to achieve compliance. Where a warning is ignored or disregarded, Health Canada may escalate its enforcement activities.

Import Refusal

Health Canada may recommend to customs officers that a product be refused entry into Canada on the basis of non-compliance with legislative requirements.

Public Alerts

When there is an imminent health hazard and the product is present in the market place or the workplace, Health Canada may inform the population at risk by means of a public alert.

Stop Sale

Health Canada may prohibit the sale of a product under the stop sale authority provided in certain legislation. Under this authority, Health Canada may require that an establishment provide evidence to address health and safety concerns and refrain from selling the product until those concerns have been addressed.

Seizures

Administrative seizures or detentions are an immediate and effective enforcement tool for controlling non-compliance. Health Canada may take control of non-compliant items (e.g. products or equipment, or a suspected carrier of an infectious or contagious disease or infestation) under the authority for administrative seizure or detention provided in the applicable legislation. When determining whether to implement an administrative seizure, Health Canada will consider the risk to health and safety and the reliability and compliance history of the establishment.

Evidentiary seizures are used to gather evidence for a prosecutions. Health Canada may seize non-compliant items under the authority of a search warrant obtained pursuant to section 487 or 489 of the Criminal Code as evidence.

Prosecutions

A prosecution is a legal proceeding in which the courts determine whether non-compliance contravenes the applicable legislation and if so, the appropriate penalty. Health Canada will consider laying charges if non-compliance:

- creates a significant health or safety risk
- is continuing in nature
- was premeditated, indifferent, reckless or a marked departure from a reasonable standard of care
- other enforcement activities have proven unsuccessful

Prosecutions may be undertaken in conjunction with other enforcement measures such as seizures, recalls or public announcement, if the circumstances warrant it.

Injunction

An injunction is a judicial order prohibiting specific activities. Health Canada will consider seeking any injunction where there is a significant and continuing situation of non-compliance, in particular where an establishment continues to be non-compliant after a conviction by the court.

Complaint Resolution

Where an establishment believes that Health Canada activity is not consistent with this policy, the establishment should bring their concerns to the attention of Health Canada management.

Information on Compliance and Enforcement Activities

Health Canada may make information on compliance and enforcement activities available, subject to the provisions of the *Access to Information Act* and the *Privacy Act*.

L. REFERENCES

Processing and Distribution of Semen for Assisted Conception Regulations, June 1996

Schedules 1218 (Alternative Testing) and 1238 (Special Access) amending the *Processing and Distribution of Semen for Assisted Conception Regulations*, July 27, 2000 and December 1, 2000 respectively

Health Canada Directive: Technical Requirements for Therapeutic Donor Insemination, July 2000

Guidance for the Interpretation of Sections 2 to 5 of the Canadian Fertility and Andrology Society 2000 Guidelines for Therapeutic Donor Insemination, May 2000

Compliance and Enforcement Policy - HPFBI, April 16, 2002, POL-0001 version 6

Therapeutic Products Programme Guidance, Donor Semen Special Access Programme, December 2000

M. ADDITIONAL INFORMATION

If there are any questions or concerns regarding this document, please contact the appropriate Operational Centre of the Health Products and Food Branch Inspectorate listed below:

Atlantic	902-426-6748
Québec	450-646-1353
Ontario and Nunavut	416-973-1596
Manitoba and Saskatchewan	204-984-1341
British Columbia, Alberta, Northwest Territories and Yukon	604-666-3896

APPENDIX A

Acceptance of the Donor into the Semen Donation Program
(Semen processed on or after March 14, 2000)

Name of the donor: _____
Date of birth: _____

As per Clause 3 of the Health Canada ***Directive on Technical Requirements for Therapeutic Donor Insemination*** *(Directive)* dated July 2000, the suitability of a specific individual for semen donation shall be documented and based on medical, sexual and social history, clinical status, physical examination and laboratory test results. Verify that all following steps have been completed in order to determine if the potential donor may be accepted into the Semen Donation Programme.

- Donor information sheet provided to the potential donor? ❒ Yes ❒ No
- Initial discussions between the staff designated by the Medical Director and the potential donor? ❒ Yes ❒ No
- Donor consent form fully completed, signed and dated? ❒ Yes ❒ No
- Donor medical questionnaire fully completed, signed and dated? ❒ Yes ❒ No
- Preliminary semen evaluation, including a cryopreservation test? ❒ Yes ❒ No
- Has the Medical interview been conducted?
  - physical examination? ❒ Yes ❒ No
  - medical history? ❒ Yes ❒ No
  - laboratory tests, including the Rh status? ❒ Yes ❒ No
  - infectious disease tests specified in Clauses 3.5.2 and 3.5.4? ❒ Yes ❒ No
  - infectious disease tests specified in Clause 3.5.3? ❒ Yes ❒ No

As per Clause 3.4(j) of the Directive, I _____ (Print name of the Medical Director or Physician Designated by the Medical Director) hereby confirm that I have reviewed the donor file and examined the potential donor. Based on my review and examination, I have determined that the potential donor is:

❒ Accepted into the Semen Donation Programme
❒ Refused from the Semen Donation Programme

If the donor is accepted, the unique identifier assigned to this donor is: _____

_____
Signature of the Medical Director or the Physician Designated by the Medical Director

_____
Date of approval / acceptance

Note:
Once completed, this summary sheet is to accompany all supporting documents that must be filed in the donor file. In addition, note that this document is intended for semen that has been processed on or after March 14, 2000. For semen processed prior to March 14, 2000, please refer to Clause 6 of the Directive.

APPENDIX B

Release of Semen Donations for Distribution
(Semen processed on or after March 14, 2000)

As per Clause 4.2.2. of the Health Canada ***Directive on Technical Requirements for Therapeutic Donor Insemination*** *(Directive)* dated July 2000, verify that all following steps (if applicable) have been completed after the semen has been quarantined for a minimum of 180 days and before it is distributed.

(a) The donor has been re-evaluated on the basis of the exclusion criteria and still found not to be within a group set out under the heading "Exclusions" in Clause 2 of the Directive
❒ Yes ❒ No

(b) The minimum serological testing set out in Clause 3.5.2, with the exception of 3.5.2©), have been repeated on a new specimen obtained from the donor
❒ Yes ❒ No

(c) Where the donor tested CMV IgG or CMV IgM negative at the "Work-up" stage, serological testing for CMV IgG and CMV IgM have been repeated on a new specimen obtained from the donor
❒ Yes ❒ No ❒ Not applicable

In addition, as per Clause 4.3 of the Directive, I _____ (Print name of the Medical Director or Physician Designated by the Medical Director) hereby confirm that the semen donations collected between the initial and final dates indicated below have met the requirements of the Directive and that these donations may be released for distribution following my review of:

- Screening based on the exclusion criteria set out under the heading "Exclusions" in Clause 2
- Donor infectious disease screening by serological and microbiological testing performed during the "Work-up" stage, as required under Clauses 3.5.2 and 3.5.4
- Donor infectious disease screening by serological testing performed during the repeat testing, as required under Clause 4.2; and
- Microbiological testing performed as set out in Clauses 5.1 and 5.2

Donor's unique identifier: _____
Initial date of semen donations approved for distribution (initial date inclusive): _____

Final date of semen donations approved for distribution (final date inclusive): _____

Date of last repeat testing used to release these donations (note: the date must be at least 180 days after the final date of the semen donations approved for distribution): _____

_____
Signature of the Medical Director or the Physician Designated by the Medical Director

_____
Date of approval / release

Note:
Once completed, this summary sheet is to accompany all supporting documents that must be filed in the donor file. In addition, note that this document is intended for semen that has been processed on or after March 14, 2000. For semen processed prior to March 14, 2000, please refer to Clause 6 of the Directive.