

# POLICY ON THE EXEMPTION OF INDUSTRIAL HEMP VARIETIES FROM THC TESTING DURING THE GROWING SEASON

## Drug Strategy and Controlled Substances Programme

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### 1. Effective Date

The *Policy on the Exemption of Industrial Hemp Varieties from THC Testing During the Growing Season* came into effect March 24, 2005.

### 2. Context

All holders of an industrial hemp licence for cultivation are required under the *Industrial Hemp Regulations (IHR)* to have their field(s) sampled by an authorized sampler and tested by a competent laboratory for the level of delta-9-tetrahydrocannabinol (THC) in the leaves and flowering heads, unless the cultivar has been exempted from this testing. The THC test results received for a variety contribute to the overall profile of the variety, and provide a basis for accepting or rejecting a variety for inclusion on the *List of Approved Cultivars (LOAC)*.

*Cannabis sativa* L. is wind-pollinated and inter-crosses freely. After several generations of reproduction, plant populations cultivated without geographical or mechanical isolation will change, and may increase their level of THC. For this reason, producers are obliged to plant pedigreed seed. Other factors may also cause an increase in THC, such as stress induced by drought, disease, infection by particular moulds and other fungi, and exposure to cold at certain stages of development. During the development of the Industrial Hemp Regulatory Framework, it was recognized that one of the critical aspects of the control program was to ensure that the level of THC found in the leaves and flowering heads of the cultivated plants remained stable. Since the sampling and testing of industrial hemp can be costly, it was also recognized that varieties proven to consistently produce plants with a THC content of 0.3% THC (w/w), or less, irrespective of stress conditions, could be exempted from the testing requirement.

Section 39 of the *IHR* obligates the Minister of Health to designate varieties of industrial hemp as approved cultivars for production in Canada. Under subsection 39(2) of the *IHR*, the Minister shall release industrial hemp varieties from the requirement for annual THC testing if there is reasonable grounds to believe that the variety consistently contains 0.3% THC (w/w) or less when cultivated in a designated region of Canada.

An Interdepartmental Working Group-Cultivars, comprised of expert representatives from different government departments and agencies that have responsibilities related to the production of industrial hemp from the marketing or regulatory perspectives, has been created. The mandate of the Working Group is to make recommendations to the Director of the Office of Controlled Substances (OCS), regarding those varieties that should be considered for inclusion on the LOAC, those that should be removed from the list or placed under observation due to a potential to exhibit elevated THC levels, and those varieties that can be exempted from annual THC testing.

### **3. Definitions**

For the purposes of this policy, the following terms will be understood to have the same meaning as given in the *IHR* and are set out below for convenient reference:

"industrial hemp" means the plants and plant parts of the genus *Cannabis*, the leaves and flowering heads of which do not contain more than 0.3% w/w of delta-9-tetrahydrocannabinol (THC), and includes the derivatives of such plants and plant parts. It also includes the derivatives of non-viable cannabis seed. It does not include plant parts of the genera *Cannabis* that consist of non-viable cannabis seed, other than its derivatives, or of mature cannabis stalks that do not include leaves, flowers, seeds or branches, or of fibre derived from those stalks.

"competent laboratory" means a laboratory that is owned or operated by a person who is a licensed dealer as defined in section 2 of the *Narcotic Control Regulations*, or a laboratory outside Canada that is recognized as a qualified laboratory, for the application of the United Nations' *Single Convention on Narcotic Drugs, 1961*, as amended from time to time, by the competent authorities of the country in which it is located.

### **4. Policy**

It is the objective of this policy to establish the criteria under which the Minister of Health will exempt varieties of industrial hemp in a given region from annual THC testing requirements pursuant to subsection 39(2) of the *IHR*.

This policy applies to varieties of *Cannabis sativa* L. that are listed on the LOAC, prepared and published annually by the OCS. Varieties identified on the list as being exempt from testing will be exempt from the requirement under subsection 16(1) of the *IHR* for the current growing season only. Varietal exemption from testing will be reviewed annually by the Interdepartmental Working Group-Cultivars.

## **5. Process**

### a) Eligibility Requirements

The Interdepartmental Working Group-Cultivars will evaluate varieties for possible exemption from annual THC testing and will make recommendations to the Director, OCS, regarding those varieties for a given year.

In order for a variety to be eligible for exemption from annual testing during the growing season, the following requirements must be fulfilled:

1. The variety must be listed on the current *List of Approved Cultivars*.
2. All commercial and research samples must have been drawn by authorised samplers, using the sampling method described in the *Industrial Hemp Technical Manual (IHTM)* and test data must originate from competent laboratories, as required by the IHTM.
3. At the time of review, a minimum of three consecutive years of test data from commercial testing in Canada, verified by official monitoring test results, must be available to the Working Group for evaluation of varietal performance. Varieties will not be considered for exemption unless average test results over a three year period are equal to or less than 0.15%, and no test results are in excess of 0.3% THC.
4. Test results must be representative of varietal performance in a minimum of three provinces unless the variety is listed on the LOAC for use in one region only. If test results exist for a variety produced in fewer than three provinces, and results are available from a minimum of three separate licences, in different counties, the variety may be exempted from annual testing in those provinces for which these data exist.

### b) Timing

All varieties that are in production will normally be evaluated for proposed exemption by the Working Group at the same time that varieties are being evaluated for inclusion on the LOAC. This occurs in December of each year. A recommendation for the exemption of varieties from annual THC testing will be submitted for the Director's consideration at the same time as the recommendation for varieties to be listed on the LOAC is submitted.

### c) Notification

Industrial hemp licence holders will be notified of the applicable exemptions from THC testing requirements for the approved cultivar listed in their licence application. Annual THC testing requirements for each variety will be indicated on the LOAC.

## **6. Enquiries**

Enquiries related to this policy should be directed to Health Canada, Drug Strategy and Controlled Substances Programme at :

Head, Industrial Hemp Section  
Licences and Permits Division  
Office of Controlled Substances  
Drug Strategy and Controlled Substances Programme  
Healthy Environments and Consumer Safety Branch  
A.L. 3502A  
Ottawa, Ontario  
K1A 1B9

Tel.: (613) 954-6524  
FAX: (613) 941-5360  
Email: [hemp@hc-sc.gc.ca](mailto:hemp@hc-sc.gc.ca)

## 7. References

### a) Relevant Documents:

- *Controlled Drugs and Substances Act*
- *Industrial Hemp Regulations*
- *Industrial Hemp Technical Manual*
- *List of Approved Cultivars*
- *Narcotic Control Regulations*

### b) Other Information Sources

Information is available on the Health Canada website at: <http://www.hc-sc.gc.ca/hecs-sesc/hecs/dscs.htm>