

California Industrial Hemp Law

The following sections are extracts from Division 24 the California Food and Agricultural Code. They have been prepared by the Nursery, Seed, and Cotton Program, Pest Exclusion Branch, California Department of Food and Agriculture. These extracts are provided for information purposes only. For the official text, the user should consult the California Food and Agricultural Code published by the California State Legislature.

81000. Definitions. For purposes of this division, the following terms have the following meanings:

(a) “Board” means the Industrial Hemp Advisory Board.

(b) “Commissioner” means the county agricultural commissioner.

(c) “Established agricultural research institution” means any institution that is either:

(1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) “Industrial hemp” has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) “Secretary” means the Secretary of Food and Agriculture.

(f) “Seed breeder” means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) “Seed cultivar” means a variety of industrial hemp.

(h) “Seed development plan” means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

(Amended November 8, 2016, by initiative Proposition 64, Sec. 9.2. Section operative January 1, 2017, pursuant to Section 81010.)

81001. (a) There is in the department an Industrial Hemp Advisory Board. The board shall consist of 11 members, appointed by the secretary as follows:

(1) Three of the board members shall be growers of industrial hemp that are registered pursuant to the provisions of this division. In the case of forming the initial board, and if the registration program established pursuant to this division has not yet been implemented, these board members shall be those who intend to register as growers of industrial hemp. A member of the board who is a grower of industrial hemp, or who intends to register as a grower of industrial hemp, shall be a representative of at least one of the following functions:

- (A) Seed production.
- (B) Seed condition.
- (C) Marketing.
- (D) Seed utilization.

(2) Two of the board members shall be members of an established agricultural research institution.

(3) One member of the board shall be a representative as provided by the California State Sheriffs' Association and approved by the secretary.



- (4) One member of the board shall be a county agricultural commissioner.
- (5) One member of the board shall be a representative of the Hemp Industries Association or its successor industry association.
- (6) One member of the board shall be a representative of industrial hemp product processors or manufacturers.
- (7) One member of the board shall be a representative of businesses that sell industrial hemp products.
- (8) One member of the board shall be a member of the public.

(b) It is hereby declared, as a matter of legislative determination, that growers and representatives of industrial hemp product manufacturers and businesses appointed to the board pursuant to this division are intended to represent and further the interest of a particular agricultural industry, and that the representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that persons who are appointed to the board shall be subject to the conflict-of-interest provisions described in Section 87103 of the Government Code.

(c) The term of office for a member of the board is three years. If a vacancy exists, the secretary shall, consistent with the membership requirements described in subdivision (a), appoint a replacement member to the board for the duration of the term.

(d) A member of the board shall not receive a salary but may be reimbursed by the department for attendance at meetings and other board activities authorized by the board and approved by the secretary.

(e) The board shall advise the secretary and may make recommendations on all matters pertaining to this division, including, but not limited to, industrial hemp seed law and regulations, enforcement, annual budgets required to accomplish the purposes of this division, and the setting of an appropriate assessment rate necessary for the administration of this division.

(f) The board shall annually elect a chair from its membership and, from time to time, other officers as it deems necessary.

(g) The board shall meet at the call of its chair or the secretary, or at the request of any four members of the board. The board shall meet at least once a year to review budget proposals and fiscal matters related to the proposals.

(Added by Stats. 2013, Ch. 398, Sec. 4. Effective January 1, 2014. Section operative January 1, 2017, pursuant to Section 81010.)

81002. (a) Except when grown by an established agricultural research institution or by a seed breeder developing a new California seed cultivar, industrial hemp shall only be grown if it is on the list of approved seed cultivars, or produced by clonal propagation of industrial hemp that is on the list of approved seed cultivars and therefore genetically identical to, and capable of exhibiting the same range of characteristics as, the parent cultivar.

(b) The list of approved seed cultivars shall include all of the following:

- (1) Industrial hemp seed cultivars that have been certified by member organizations of the Association of Official Seed Certifying Agencies, including, but not limited to, the Canadian Seed Growers' Association.
- (2) Industrial hemp seed cultivars that have been certified by the Organization of Economic Cooperation and Development.
- (3) California varieties of industrial hemp seed cultivars that have been certified by a seed-certifying agency pursuant to Article 6.5 (commencing with Section 52401) of Chapter 2 of Division 18.

(c) (1) Upon recommendation by the board or the department, the secretary may update the list of approved seed cultivars by adding, amending, or removing seed cultivars.
(2) The adoption, amendment, or repeal of the list of approved seed cultivars, and the adoption of a methodology and procedure to add, amend, or remove a seed cultivar from the list of approved

seed cultivars, pursuant to this section shall not be subject to the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(3) The department, in consultation with the board, shall hold at least one public hearing with public comment to determine the methodology and procedure by which a seed cultivar is added, amended, or removed from the list of approved seed cultivars.

(4) The department shall finalize the methodology and procedure to add, amend, or remove a seed cultivar from the list of approved seed cultivars and send the methodology and procedure to the Office of Administrative Law. The Office of Administrative Law shall file the methodology and procedure promptly with the Secretary of State without further review pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The methodology and procedure shall do all of the following:

- (A) Indicate that the methodology and procedure are adopted pursuant to this division.
- (B) State that the methodology and procedure are being transmitted for filing.
- (C) Request that the Office of Administrative Law publish a notice of the filing of the methodology and procedure and print an appropriate reference in Title 3 of the California Code of Regulations.

(d) The department, in consultation with the board, may determine the manner in which the public is given notice of the list of approved seed cultivars, and any addition, amendment, or removal from that list.

(Amended by Stats. 2018, Ch. 986, Sec. 1. (SB 1409) Effective January 1, 2019.)

81003. (a) (1) Except for an established agricultural research institution, and before cultivation, a grower of industrial hemp for commercial purposes shall register with the commissioner of the county in which the grower intends to engage in industrial hemp cultivation.

(2) The application shall include all of the following:

- (A) The name, physical address, and mailing address of the applicant.
- (B) The legal description, Global Positioning System coordinates, and map of the land area on which the applicant plans to engage in industrial hemp cultivation, storage, or both.
- (C) The approved seed cultivar to be grown, including the state or county of origin

(3) (A) The application shall be accompanied by a registration fee, as determined pursuant to Section 81005.

(B) A registration issued pursuant to this section shall be valid for one year, after which the registrant shall renew his or her registration and pay an accompanying renewal fee, as determined pursuant to Section 81005.

(b) If the commissioner determines that the requirements for registration pursuant to this division are met, the commissioner shall issue a registration to the applicant.

(c) A registrant that wishes to alter the land area on which the registrant conducts industrial hemp cultivation, storage, or both, shall, before altering the area, submit to the commissioner an updated legal description, Global Positioning System coordinates, and map specifying the proposed alteration. Once the commissioner has received the change to the registration, the commissioner shall notify the registrant that it may cultivate industrial hemp on the altered land area.

(d) A registrant that wishes to change the seed cultivar grown shall submit to the commissioner the name of the new, approved seed cultivar to be grown. Once the commissioner has received the change to the registration, the commissioner shall notify the registrant that it may cultivate the new seed cultivar.

(e) The commissioner shall transmit information collected under this section to the department.

(Amended by Stats. 2018, Ch. 986, Sec. 2. (SB 1409) Effective January 1, 2019.)

81004. (a) (1) Except when grown by an established agricultural research institution, and before cultivation, a seed breeder shall register with the commissioner of the county in which the seed breeder intends to engage in industrial hemp cultivation.

(2) The application shall include all of the following:

- (A) The name, physical address, and mailing address of the applicant.
- (B) The legal description, Global Positioning System coordinates, and map of the land area on which the applicant plans to engage in industrial hemp cultivation, storage, or both.
- (C) The approved seed cultivar to be grown for seed production, including the state or county of origin.
- (D) If an applicant intends to develop a new California seed cultivar to be certified by a seed-certifying agency, the applicant shall include all of the following:
 - (i) The name of the seed-certifying agency that will be conducting the certification.
 - (ii) The industrial hemp varieties that will be used in the development of the new California seed cultivar.
 - (iii) A seed development plan specifying how the listed industrial hemp varieties will be used in the development of the new seed cultivar, measures that will be taken to prevent the unlawful use of industrial hemp or seed cultivars under this division, and a procedure for the maintenance of records documenting the development of the new seed cultivar.

(3) (A) The application shall be accompanied by a registration fee, as determined pursuant to Section 81005.

(B) A registration issued pursuant to this section shall be valid for one year, after which the registrant shall renew its registration and pay an accompanying renewal fee, as determined pursuant to Section 81005.

(b) If the commissioner determines that the requirements for registration pursuant to this division are met, the commissioner shall issue a seed breeder registration to the applicant.

(c) A registrant that wishes to alter the land area on which the registrant conducts industrial hemp cultivation, storage, or both, shall, before altering the area, submit to the commissioner an updated legal description, Global Positioning System coordinates, and map specifying the proposed alteration. Once the commissioner has received the change to the registration, the commissioner shall notify the registrant that it may cultivate industrial hemp on the altered land area.

(d) A registrant that wishes to change the seed cultivar grown shall submit to the commissioner the name of the new, approved seed cultivar to be grown. Once the commissioner has received the change to the registration, the commissioner shall notify the registrant that it may cultivate the new seed cultivar.

(e) A registrant developing a new California seed cultivar who wishes to change any provision of the seed development plan shall submit to the commissioner the revised seed development plan. Once the commissioner has received the change to the registration, the commissioner shall notify the registrant that he or she may cultivate under the revised seed development plan.

(f) All records pertaining to the seed development plan shall be kept and maintained by the seed breeder and be available upon request by the commissioner, a law enforcement agency, or a seed certifying agency.

(g) The commissioner shall transmit information collected under this section to the department.

(Amended by Stats. 2018, Ch. 986, Sec. 3. (SB 1409) Effective January 1, 2019.)

81005. (a) The department shall establish a registration fee and appropriate renewal fee to be paid by growers of industrial hemp for commercial purposes and seed breeders, not including an established agricultural research institution, to cover the actual costs of implementing, administering, and enforcing the provisions of this division.

(b) Fees established pursuant to subdivision (a) that are collected by the commissioners upon registration or renewal pursuant to Section 81003 or 81004, except for amounts retained pursuant to this subdivision, shall be forwarded, according to procedures set by the department, to the department for deposit into the Department of Food and Agriculture Fund to be used for the administration and enforcement of this division. A commissioner or the county, as appropriate, may retain the amount of a fee necessary to reimburse direct

costs incurred by the commissioner in the collection of the fee.

(c) The board of supervisors of a county may establish a reasonable fee, in an amount necessary to cover the actual costs of the commissioner and the county of implementing, administering, and enforcing the provisions of this division, except for costs that are otherwise reimbursed pursuant to subdivision (b), to be charged and collected by the commissioner upon registrations or renewals required pursuant to Section 81003 or 81004 and retained by the commissioner or the county, as appropriate.

(Amended by Stats. 2018, Ch. 986, Sec. 4. (SB 1409) Effective January 1, 2019.)

81006. Industrial Hemp Growth Limitations; Prohibitions; Imports; Laboratory Testing.

(a) (1) Except when grown by an established agricultural research institution or a seed breeder, industrial hemp shall be grown in acreages of not less than one-tenth of an acre at the same time.

(2) Seed breeders, for purposes of seed production, shall only grow industrial hemp in acreages of not less than one-tenth of an acre at the same time.

(3) Seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp in dedicated acreage of not less than one-tenth of an acre and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(d) (1) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(2) Sampling shall occur no more than 30 days before harvest.

(3) The sample collected for THC testing shall be taken with the grower or seed breeder present. The department shall establish, by regulation, the sampling procedures, including all of the following:

(A) The number of plants to be sampled per field, and any composting of samples.

(B) The portions of the plant to be sampled.

(C) The plant parts to be included in a sample.

(D) Additional procedures as necessary to ensure accuracy and the sanitation of samples and fields.

(4) The sample collected for THC testing shall be accompanied by the following documentation:

(A) The registrant's proof of registration.

(B) Seed certification documentation for the seed cultivar used.

(C) The THC testing report for each certified seed cultivar used.

(5) The laboratory test report shall be issued by a laboratory approved by the department, using a department-approved testing method, and indicate the percentage content of THC on a dry-weight basis, indicate the date and location of samples taken, and state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.

(6) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less

than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.

(7) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.

(8) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (7) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall begin within 48 hours, and be completed within 7 days, after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.

(9) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(10) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.

(11) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing, transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(e) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

(Amended by Stats. 2018, Ch. 986, Sec. 5. (SB 1409) Effective January 1, 2019. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)

81007. As part of the registration program established pursuant to this division, the department may establish and carry out, by regulation, an agricultural pilot program pursuant to Section 7606 of the federal Agricultural Act of 2014 (7 U.S.C. Sec. 5940) in accordance with the purposes of that section.

(Added by Stats. 2018, Ch. 986, Sec. 6. (SB 1409) Effective January 1, 2019.)

81008. Attorney General Reports; Requirements.

(a) Not later than January 1, 2019, the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

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(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

(Amended November 8, 2016, by initiative Proposition 64, Sec. 9.5. Section operative January 1, 2017, pursuant to Section 81010. Repealed on January 1, 2023, or later as prescribed by its own provisions.)

81009. Not later than January 1, 2019, or five years after the provisions of this division are authorized under federal law, whichever is later, the board, in consultation with the Hemp Industries Association, or its successor industry association, shall report the following to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety:

(a) The economic impacts of industrial hemp cultivation, processing, and product manufacturing in California.

(b) The economic impacts of industrial hemp cultivation, processing, and product manufacturing in other states that may have permitted industrial hemp cultivation.

(Added by Stats. 2013, Ch. 398, Sec. 4. Effective January 1, 2014. Section operative January 1, 2017, pursuant to Section 81010.)

81010. This division, and Section 221 shall become operative on January 1, 2017.

(Amended by Stats. 2017, Ch. 27, Sec. 112. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64, making Division 24 (commencing with Section 81000) operative on January 1, 2017.)

81011. Before cultivating industrial hemp, an established agricultural research institution shall provide the Global Positioning System coordinates of the planned cultivation site to the commissioner of the county in which the site is located.

(Added by Stats. 2018, Ch. 986, Sec. 7. (SB 1409) Effective January 1, 2019.)



Registration Fees

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California Code of Regulations

Title 3. Food and Agriculture

Division 4. Plant Industry

Chapter 8. Industrial Hemp Cultivation

Article 1. Registration of Industrial Hemp Growers

4900. Registration Fees

- (a) The Secretary establishes the following fees for registration of growers of industrial hemp for commercial purposes and seed breeders to be submitted along with the registration application:
 - (1) Prior to cultivation, a fee of nine-hundred dollars (\$900) per applicant shall be submitted with the application to the commissioner.
 - (2) A separate registration is required for each county in which the applicant intends to grow industrial hemp.
 - (3) This registration is valid for one year from date of issuance by the commissioner.
- (b) The Secretary establishes the following fees for registration renewal of growers of industrial hemp for commercial purposes and seed breeders:
 - (1) Upon expiration of registration, a fee of nine-hundred dollars (\$900) per registrant shall be due to the commissioner in each county in which the applicant intends to continue to grow industrial hemp.
 - (2) Renewed registration is valid for one year from date of issuance of renewal by the commissioner.

Note: Authority cited: Sections 407, 483, and 81005, Food and Agricultural Code.
Reference: Sections 81003, 81004, and 81005, Food and Agricultural Code.





List of Approved Seed Cultivars

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California Code of Regulations

Title 3. Food and Agriculture

Division 4. Plant Industry

Chapter 8. Industrial Hemp Cultivation

Article 2. Regulations for Industrial Hemp Cultivation

4920. List of Approved Seed Cultivars

- (a) The Secretary, as provided in Section 81002 of the Food and Agricultural Code, adopts the following list of approved seed cultivars.
 - (1) Industrial hemp seed or propagative materials certified as breeder, foundation, registered, or certified seed or stock by one of the following agencies:
 - (A) Member organizations of the Association of Official Seed Certifying Agencies,
 - (B) Organization of Economic Cooperation and Development, or
 - (C) An officially approved and recognized seed-certifying agency listed in Title 3, California Code of Regulations, Section 3875, as provided in Section 52401 of the Food and Agricultural Code.
 - (2) Industrial hemp seed or propagative materials produced in a quality assurance program approved by one of the following agencies:
 - (A) Member organizations of the Association of Official Seed Certifying Agencies,
 - (B) Organization of Economic Cooperation and Development, or
 - (C) An officially approved and recognized seed-certifying agency listed in Title 3, California Code of Regulations, Section 3875, as provided in Section 52401 of the Food and Agricultural Code.
 - (3) Industrial hemp seed or propagative materials produced by an authorized participant in a state industrial hemp agricultural pilot program, pursuant to Section 7606 of the federal Agricultural Act of 2014 (7 U.S.C. Sec. 5940).
 - (A) The crop from which the seed or propagative materials were harvested from shall have been tested in accordance with a testing method approved by the regulatory authority in the state of origin and found to have no more than three-tenths of one percent tetrahydrocannabinol (THC) on a dry weight basis.
 - (B) The commissioner shall be notified of the importation of all propagative materials into the county. The shipment is subject to inspection by the commissioner and shall not be used for cultivation until released by the commissioner (California Food and Agricultural Code Division 4, Part 2, Chapter 2 § 6401 and § 6501).
 - (4) Industrial hemp seeds or tissue culture plants imported from outside the United States that meets federal importation requirements.
 - (A) The crop from which the seeds or tissue culture plants were harvested from shall have been tested in accordance with a testing method approved by the department of



List of Approved Seed Cultivars (3 CCR § 4920)

agriculture in the country of origin and found to have no more than three-tenths of one percent THC on a dry weight basis.

- (B) The commissioner shall be notified of the importation of all propagative materials into the county. The shipment is subject to inspection by the commissioner and shall not be used for cultivation until released by the commissioner (California Food and Agricultural Code Division 4, Part 2, Chapter 2 § 6401 and § 6501).
 - (C) For the purposes of this section, the term “tissue culture” means in vitro material introduced into culture from nodal cuttings at a particular time and from a single plant and grown in aseptic conditions to be used as a source of propagative material.
- (5) Industrial hemp seed or propagative materials produced in California in accordance with the provisions of Division 24 of the Food and Agricultural Code and this chapter.
- (A) The crop from which the seed or propagative materials were harvested from shall have been tested by a department-approved laboratory and found to have no more than three-tenths of one percent THC on a dry weight basis.

Note: Authority cited: Sections 407 and 81002, Food and Agricultural Code.
Reference: Sections 81001 and 81002, Food and Agricultural Code



Methodology and Procedure to Update the List of Approved Seed Cultivars

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California Code of Regulations

Title 3. Food and Agriculture

Division 4. Plant Industry

Chapter 8. Industrial Hemp Cultivation

Article 2. Regulations for Industrial Hemp Cultivation

4921. Methodology and Procedure to Update the List of Approved Seed Cultivars

- (a) The Secretary adopts the following methodology and procedure to add, amend or remove a seed cultivar from the list of approved seed cultivars.
- (1) Upon request from the chair of the Board, or of any four members of the Board, the Department shall schedule a public hearing to consider a proposal to update the list of approved seed cultivars by adding, amending, or removing seed cultivars. A notice and text of the proposal shall be made available to the public no less than 30 days prior to the hearing.
 - (2) The public hearing to consider a proposal to update the list of approved seed cultivars shall be part of a regularly scheduled meeting of the Industrial Hemp Advisory board.
 - (3) The public hearing shall include:
 - (A) Presentation of the proposal to update the list of approved seed cultivars;
 - (B) Presentation of the purpose for the update; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
 - (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny a proposal for recommendation to the Secretary.
 - (5) Upon recommendation by the Board to adopt a proposal and approval by the Secretary, the Department shall amend the list of approved seed cultivars and shall submit the amended list to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
 - (6) The Department shall post the list of approved seed cultivars to its website and shall provide electronic and/or mail notification of amendments to list of approved seed cultivars to parties that have requested notification. An interested party may go to the Department's website and elect to receive automatic notifications of any changes to the list of approved seed cultivars via an electronic mail listserv.
- (b) The Secretary adopts the following methodology and procedure to add, amend or remove a seed cultivar from the list of approved seed cultivars.
- (1) By motion, the Board may recommend amending the methodology and procedure in subsection (a). In consultation with the chair of the Board, the Department shall schedule a public hearing to consider the recommendation, and a notice and text of the proposed amendment shall be made available to the public no less than 30 days prior to the hearing.



Methodology and Procedure to Update the List of Approved Seed Cultivars (3 CCR § 4921)

- (2) The public hearing to consider a proposal to amend the methodology and procedure shall be part of a regularly scheduled meeting of the Industrial Hemp Advisory Board.
- (3) The public hearing shall include:
 - (A) Presentation of the proposal to amend the methodology and procedure;
 - (B) Presentation of the purpose for the amendment; and
 - (C) Opportunity for public comment, pursuant to Section 11125.7 of the Government Code.
- (4) After receiving comments from the public, the Board shall vote to accept, amend and accept, or deny the proposal for recommendation to the Secretary.
- (5) Upon recommendation by the Board to adopt the amendment and approval by the Secretary, the Department shall amend the methodology and procedure, and shall submit the amended methodology and procedure to the Office of Administrative Law to be filed promptly with the Secretary of State. Pursuant to Section 81002 of the Food and Agricultural Code, the proposal shall not be subject to further review.
- (6) The Department shall provide electronic and/or mail notification of the amendment to the methodology and procedure to parties that have requested notification. An interested party may go to the Department's website and elect to receive automatic notifications of any changes to the methodology and procedure via an electronic mail listserv.

Note: Authority cited: Sections 407 and 81002, Food and Agricultural Code.
Reference: Sections 81001 and 81002, Food and Agricultural Code.



Industrial Hemp Sampling and Testing

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California Code of Regulations

Title 3. Food and Agriculture

Division 4. Plant Industry

Chapter 8. Industrial Hemp Cultivation

Article 2. Regulations for Industrial Hemp Cultivation

4940. Sampling Timeframe and Pre-Harvest Notification for Industrial Hemp

(a) Sampling Timeframe

- (1) Sampling shall occur no more than 30 days before harvest.
- (2) Any changes to the harvest date may require additional testing for THC content prior to harvest.

(b) Sampling Request and Pre-Harvest Report.

- (1) In order to request sampling, registrants shall submit a pre-harvest report to the commissioner at least 30 days before harvest to initiate the sampling process. The pre-harvest report shall include the:
 - (A) registrant's registration number,
 - (B) name and contact information of the registrant,
 - (C) anticipated harvest date,
 - (D) name of the seed cultivar(s),
 - (E) physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop
 - (F) Name and contact information of the laboratory to conduct the testing for THC content.
- (2) The commissioner, or a third-party sampler designated by the commissioner, shall schedule a sampling date within 30 days of the anticipated harvest date.
- (3) Registrants shall notify the commissioner of any changes to the above information no less than 5 calendar days prior to the scheduled sampling date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4941. Sampling Procedures for Testing Industrial Hemp for THC Content

(a) Collection of Samples.

- (1) Samples for THC testing shall be collected by the commissioner, or a third-party sampler designated by the commissioner.



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- (2) The commissioner, or designated sampler, shall verify that the sample collection site corresponds to the registered location using GPS coordinates prior to the collection of the samples.
- (3) The registrant must be present to observe the collection of samples and allow the commissioner, or designated sampler, access to all industrial hemp plants within the registered land area and all areas and facilities used for cultivation.

(b) Sample Volume and Composition

- (1) Each primary sample shall include all parts of the plant, including stems, stalks, flowers, leaves, seeds, and buds from:
 - (A) If two or more lateral branches are present, the terminal 18 inches of the top lateral branch and terminal 18 inches of one lateral branch from the lower one-third of the plant. If any branch is less than 18 inches, the whole branch shall be taken.
 - (B) If two lateral branches are not present, the terminal 18 inches from the terminal bud at the top of the plant. If the plant is less than 18 inches tall, the whole plant shall be taken.
- (2) A composite sample shall consist of at least five primary samples from different plants.
- (3) A separate composite sample shall be taken for:
 - (A) Each cultivar within each contiguous field, and
 - (B) Indoor and outdoor growing areas shall be treated as separate fields.
- (4) When feasible, the commissioner, or designated sampler, should not collect samples within 10 feet of field edges.

(c) Handling of Samples.

- (1) All plant material collected for a composite sample shall be placed together in a permeable bag, and kept in a manner not conducive to mold growth.
- (2) The bag containing the composite sample shall be sealed and labeled in a manner to detect tampering and ensure chain of custody. Sample labels shall be signed by both the registrant and the commissioner or designated sampler.
- (3) Samples shall be labeled with a unique sample identification number and accompanied by the following documentation:
 - (A) The registrant's proof of registration,
 - (B) The pre-harvest report,
 - (C) Seed certification documentation for the seed cultivar used,
 - (D) The THC testing report for each certified seed cultivar used, and
 - (E) A sample analysis request form with chain of custody information provided by the testing laboratory.
- (4) Samples shall be delivered to the testing laboratory within 24 hours of collection. The testing laboratory shall document the chain of custody by signing the sample label upon receiving the sample. A copy of the signed chain of custody documentation shall be provided by the testing laboratory to the commissioner or designated sampler.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4942. Approved Testing Method for Testing Industrial Hemp for THC Content

- (a) Sampling Preparation.
 - (1) The laboratory shall maintain chain of custody upon receiving the samples.
 - (2) Each composite sample shall be maintained and tested separately for THC content.
 - (3) All parts of the plant included in the composite sample shall be processed and tested as a single sample. No plant parts shall be removed during the sample preparation and testing.
 - (4) All parts of the plant included in the composite sample shall be dried until the weight of the composite sample remains constant after drying intervals. Drying temperature must not exceed 90 degrees Celsius. Dried composite samples shall be milled to a homogenous powder-like consistency and combined before analysis.
- (b) Suitable analytical instrumentation used to determine THC content in industrial hemp includes the following:
 - (1) Gas chromatography with flame ionization detector
 - (2) Gas chromatography coupled with mass spectrometry
 - (3) Liquid chromatography coupled with mass spectrometry
 - (4) Liquid chromatography coupled with ultraviolet detector
- (c) Analytical instrumentation used must be able to establish a validated limit of quantification (LOQ) of one-tenth of 1 percent or lower for total THC content.
- (d) Sample Retention.
 - (1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall retain the sample for a minimum of 30 days from the testing date.
 - (2) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the laboratory shall retain the sample for a minimum of 60 days from the testing date.
 - (3) If the laboratory test report indicates a percentage content of THC that exceeds 1 percent, the laboratory shall retain the sample for a minimum of 90 days from the testing date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4943. Approved Laboratory for Testing Industrial Hemp for THC Content

- (a) Testing of industrial hemp for THC content shall be conducted by a laboratory with International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025 accreditation using a validated method for total THC analysis.
- (b) The laboratory shall retain, and make available to the commissioner upon request, a copy of the ISO/IEC 17025 certificate of accreditation.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4944. Notification of Laboratory Test Report

- (a) Laboratories shall provide a laboratory test report to the registrant and commissioner within 10 days of the collection of samples.
 - (1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the registrant no fewer than 10 original

- copies with wet signatures and the commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory. The laboratory shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.
- (2) If the laboratory test report indicates a percentage content of THC that exceeds three-tenths of 1 percent, the laboratory shall provide both the registrant and commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory.
- (b) Laboratories shall issue a laboratory test report for each composite sample. The laboratory test report shall include the:
- (1) registration number,
 - (2) unique sample identification number,
 - (3) name and contact information of the registrant
 - (4) name of the sampler,
 - (5) dates of the sample collection and testing,
 - (6) name of the cultivar tested,
 - (7) physical address, Global Positioning System coordinates, general description of the location, and acreage of the field sampled,
 - (8) name of approved analytical instrumentation used and the limit of quantification (LOQ),
 - (9) name of the person receiving the sample,
 - (10) name of the person testing the sample,
 - (11) percentage content of THC, a post-decarboxylation value or a calculated value using a conversion formula of delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid, on a dry weight basis, and words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" or "FAILED AS CALIFORNIA INDUSTRIAL HEMP" at or near the top of page.
 - (A) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.
 - (B) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4945. Approved Testing Method for Retesting of Industrial Hemp for THC Content

- (a) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, additional samples for retesting shall be collected in accordance with the sampling procedures outlined in Section 4941 and tested in accordance with the testing procedures outlined in Sections 4942 through 4944.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4946. Final Disposition for Registered Industrial Hemp Crops

- (a) Registrants may harvest the sampled crop upon receipt of a laboratory test report that indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent.
- (1) Registrants shall submit a harvest report to the commissioner within 72 hours following the completion of the harvest. The harvest report shall include the:
- (A) registration number,
 - (B) name and contact information of the registrant,

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- (C) date(s) of harvest,
- (D) name of the cultivar(s) and unique sample identification number(s),
- (E) physical address, Global Positioning System coordinates, general description of the location, and acreage of the harvested crop.

(2) The commissioner may confirm the harvest of the crop by conducting field inspections.

(b) Registrants shall destroy a crop that does not comply with the three-tenths of 1 percent THC limit in accordance with the provisions of Section 4950 within the following timeframes:

- (1) If a laboratory test report indicates a percentage content of THC exceeds 1 percent, the destruction shall begin within 48 hours, and be completed within seven days, after the registrant's receipt of the laboratory test report.
- (2) If a second laboratory test report indicates a percentage content of THC exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after the registrant's receipt of the second laboratory test report.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code



Destruction of Industrial Hemp Crops

The following sections are extracts from the California Code of Regulations. They have been prepared by the Nursery, Seed, and Cotton Program, Pest Exclusion Branch, California Department of Food and Agriculture. These extracts are provided for information purposes only. For the official text, the user should consult the California Code of Regulations published by Barclays Law Publishers.

California Code of Regulations
Title 3. Food and Agriculture
Division 4. Plant Industry
Chapter 8. Industrial Hemp Cultivation
Article 3. Abatement and Enforcement

4950. Destruction of Non-Compliant Industrial Hemp Crops

- (a) Any industrial hemp crop that does not meet the requirements of Division 24 of the Food and Agricultural Code and this chapter shall be destroyed in a manner approved by the commissioner:
 - (1) Unless otherwise specified in 4946 (b), any non-compliant industrial hemp crop shall be destroyed as soon as practical, but no later than 45 days after the registrant's receipt of notification of abatement from the commissioner.
- (b) The grower of the industrial hemp crop shall submit a destruction plan to the commissioner at least 24 hours prior to the start of the destruction. The destruction plan shall include the:
 - (1) Registration number, if applicable;
 - (2) Name and contact information of the grower;
 - (3) Anticipated destruction date(s) of the crop to be destroyed;
 - (4) Name of the cultivar(s) and unique sample identification number(s), if applicable;
 - (5) Physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop to be destroyed; and
 - (6) Proposed destruction method.
- (c) The proposed crop destruction method shall be approved by the commissioner prior to the start of the destruction.
- (d) The commissioner shall confirm the destruction of the crop by conducting inspections.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

4950.1 Voluntary Destruction of Industrial Hemp Crops

- (a) Any industrial hemp grower that wishes to voluntarily destroy a crop shall do so in a manner approved by the commissioner.
- (b) The grower of the industrial hemp crop shall submit a destruction plan to the commissioner at least 24 hours prior to the start of the destruction. The destruction plan shall include the:
 - (1) Registration number, if applicable;
 - (2) Name and contact information of the grower;
 - (3) Anticipated destruction date(s) of the crop to be destroyed;
 - (4) Name of the cultivar(s) and unique sample identification number(s), if applicable;



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- (5) Physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop to be destroyed; and
- (6) Proposed destruction method.

(c) The proposed crop destruction method shall be approved by the commissioner prior to the start of the destruction.

(d) The commissioner shall confirm the destruction of the crop by conducting inspections.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code