

ACVM Alert Notification 22-001

Industrial Hemp and Cannabis as Agricultural Compounds (Supersedes ACVM Alert Notification 20-001)

As the industrial hemp industry continues to grow in New Zealand, there is also a growing interest in using industrial hemp and hemp-derived substances such as hemp oil and hemp seed in animal feed and other substances classed as agricultural compounds. To ensure New Zealand Food Safety are providing up to date information, we have reviewed how animal feeds and other veterinary products containing industrial hemp and hemp-derived substances are classed under the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM Act).

Animal feeds such as grazing forage, silage, hay intended for food-producing animals, as well as pet food, and pet treats intended for companion animals, are regulated as agricultural compounds under the ACVM Act.

Key points

- All agricultural compounds containing industrial hemp and hemp-derived substances must be registered under the ACVM Act before they can be legally imported, manufactured, sold, or used. This includes animal feeds such as grazing, pet food, and treats, and non-feeds such as shampoos, topical products, and supplements.
- These compounds must be registered because the presence of industrial hemp and its substances means the agricultural compounds do not fit an exemption category in the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011 (ACVM Regulations).
- In addition to the requirements under the ACVM Act, there are also other pieces of legislation administered by the Ministry of Health to be aware of and complied with when industrial hemp is grown or used.

Authorisation under the ACVM Act can take the form of either registration as a trade name product, or exemption from registration by way of compliance with the ACVM Regulations. It is an offence to import, manufacture, sell or use any agricultural compound that is not authorised by either registration or exemption.

Animal feeds, pet foods and treats are typically classed as oral nutritional compounds exempt from registration under the ACVM Regulations provided they:

- a) meet the description of oral nutritional compounds; and
- b) conform to the requirements for exemption from registration in the ACVM Regulations; and
- c) meet the conditions of exemption applicable to oral nutritional compounds.

When an oral nutritional compound (Schedule 2 entry 22 of the ACVM Regulations) also contains industrial hemp or hemp-derived substances, it is classed as a combination of both an oral nutritional compound and an oral preparation prepared from a plant, part of a plant, or an unrefined extract of a plant (Schedule 2 entry 13 of the ACVM Regulations). For a combination product containing industrial hemp, the conditions of exemption for a plant preparation cannot be met because cannabis is a substance prohibited by countries importing NZ primary produce (see para (f) of the conditions applying to Schedule 2 entry 13

of the ACVM Regulations). This means that products containing hemp or hemp-derived substances are not eligible for exemption and must be registered under the ACVM Act before they can be imported, manufactured, sold, or used in any species in New Zealand.

Other agricultural compound products containing industrial hemp or hemp-derived substances that are not feeds will also be subject to the same conditions of exemption if they are other types of oral and topical preparations for animals, or are making therapeutic claims like managing behavioural problems such as anxiety or treating pain and distress.

A person looking to import, manufacture, sell, or use products containing THC and/or CBD must comply with Ministry of Health administered legislation including the Misuse of Drugs Act 1975, the Misuse of Drugs (Industrial Hemp) Regulations 2006, the Medicines Act 1981, and the Medicines Regulations 1984. These pieces of legislation set out the regulatory controls on THC content and the status of CBD products as medicines. It is important to be aware of this as regulatory restrictions in place under the Ministry of Health legislation may also apply to products intended for use on animals.

For more information on the registration of agricultural compounds containing industrial hemp and hemp-derived substances, or any other questions about these products, please contact New Zealand Food Safety at approvals@mpi.govt.nz.

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FREQUENTLY ASKED QUESTIONS

1. Would my hemp and/or CBD product be eligible for exemption from registration if I can prove it is THC-free?

From an ACVM perspective, the requirement that an exempt plant-based product must not contain substances prohibited by our trading partners always applies. Because some trading partners class hemp as a whole as a prohibited substance, the presence or absence of THC is not the critical factor.

2. Why is it legal for humans to eat hemp seeds but illegal/prohibited for animals to eat hemp?

Human foods and animal feeds are regulated separately, with each being subject to different regulatory controls. The Food Act, which regulates food for human consumption, acknowledges that hemp seeds can be considered a food. The Food Act does not apply to animal feeds.

3. Is it true that hemp is prohibited for use in animals?

No. Veterinary medicines and animal feeds can be made from hemp or include hemp-derived substances like hemp oil or hemp seed, but the presence of hemp means they must be registered under the ACVM Act before they can be legally made for and used in animals.

4. Can I use human hemp or CBD products on my pets, or feed human-food hemp seed to them?

No, not without veterinary authorisation and oversight. Use or feeding of products made from hemp to an animal makes that product a veterinary medicine subject to the controls and restrictions under the ACVM Act. Veterinary oversight is required to make sure that the use of hemp products or CBD in pets is safe, and to be able to administer treatment if something goes wrong. Administering or feeding hemp to an animal without veterinary authorisation and oversight could put that animal in danger and may be considered a breach of the ACVM Act by MPI.

5. Can my vet prescribe or authorise use of a human hemp or CBD product to treat my pet?

Yes. Veterinarians can use human medicines including controlled drugs to treat an animal under their direct care if they feel there is a therapeutic need to do so. The vet must then manage all the risks to that animal's welfare as part of their treatment plan.

Veterinarians can also request MPI approval to import a hemp or CBD product for the treatment of their patient if there is not a suitable veterinary or human medicine available in New Zealand. More information about this type of approval, called approval in special circumstances, can be found here:

<https://www.mpi.govt.nz/processing/agricultural-compounds-and-vet-medicines/veterinary-medicines/getting-a-veterinary-medicine-authorised/authorisation-of-veterinary-medicines-under-special-circumstances/>.

This type of approval is only issued to veterinarians looking to treat their own patients and cannot be granted directly to owners.

Please note that under the Veterinarian's Act and the veterinarians' Code of Professional Conduct, all vets have an obligation to choose to import and/or use a human medicine for animal treatment only if there is no suitable alternative veterinary treatment available. This is known as following the veterinary medicine authorisation "cascade."



Industrial Hemp as Agricultural Compounds

Supersedes ACVM Alert Notification 18-001

The cultivation of industrial hemp is a growing industry in New Zealand, particularly since the changes to law that allowed the use of industrial hemp seed as food for human consumption. When it comes to feed for animal consumption however, there are different laws and requirements that apply.

Animal feed such as grazing, silage, or hay for food-producing animals, and pet food, treats, and nutritional supplements for companion animals, are regulated as agricultural compounds under the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997. According to section 8 of the ACVM Act, it is an offence to import, manufacture, sell or use any agricultural compound that is not authorised. Authorisation under the ACVM Act can take the form of either registration as a trade name product, or exemption from registration subject to compliance with the Agricultural Compounds and Veterinary Medicines (Exemptions and Prohibited Substances) Regulations 2011 (ACVM Regulations) and the applicable conditions of exemption.

Animal feeds, pet foods, and treats are typically exempt from registration as oral nutritional compounds under the ACVM Regulations provided they conform to the requirements in the regulations and can meet the conditions of exemption. There is however a requirement under the ACVM Act that controlled drugs must only be given to or fed to animals after registration under the ACVM Act and authorisation of that registered product by a veterinarian. This is to ensure the risks associated with that controlled drug, including risks to the animal's welfare and, in the case of food-producing animals the risk of the drug causing residues in food, are appropriately managed.

Industrial hemp is primarily regulated under the Misuse of Drugs Act 1975 and the Misuse of Drugs (Industrial Hemp) Regulations 2006, both of which are administered by the Ministry of Health. Under these pieces of legislation, industrial hemp is defined as a cannabis plant, seed, or fruit with a THC content that is generally below 0.35% and is not above 0.5%. Although the amount of THC typically found in industrial hemp is low, the Misuse of Drugs Act does not prescribe a limit for the presence of a controlled drug, and so any amount of THC above zero, and anything containing that THC, is classified as a Class B controlled drug.

Cannabidiol (CBD) is also found in industrial hemp. Under the Misuse of Drugs Act, a "CBD product" is defined as a product that contains cannabidiol and a low amount of THC (not more than 2% of the total CBD content). CBD products intended for animals are classed as veterinary medicines subject to registration under the ACVM Act. At levels above 10 parts per million (10 mg/kg), CBD products are also classed as prescription-only medicines under the Medicines Act 1981, administered by the Ministry of Health.

If industrial hemp is being considered for use as animal feed, that animal feed would be subject to all of the following Acts and Regulations at the same time:

- the ACVM Act and Regulations, which regulate feed as an agricultural compound and oral nutritional compound;
- the Misuse of Drugs Act and its Regulations, which would make the feed a Class B controlled drug due to the presence of THC; and
- the Medicines Act and its Regulations, which would make the feed a prescription-only medicine due to the presence of CBD.

This means that feeding industrial hemp or anything containing it to animals is not permitted without authorisation, as required under those pieces of legislation.

MPI cannot endorse or condone the use of industrial hemp as an animal feed, as such use could be an offence under the Medicines and/or the Misuse of Drugs legislation. The use of industrial hemp as an animal feed cannot be permitted unless industrial hemp and/or hemp products are either shown to contain no concentration of tetrahydrocannabinols (e.g. zero-level, and/or less than 10 parts per million of CBD), are registered for use in animals under the ACVM Act, or there is a change to the legislative framework. For food producing animals, there is also the concerns regarding residues in meat and milk, and the risks those residues may pose to domestic and export trade.

The Ministry of Health have advised MPI that the zero-level requirement in the Misuse of Drugs Act is absolute, and that a “non-detectable” result from laboratory testing is not specific enough to confirm a zero-level of controlled substances. This means that it must be assumed that all industrial hemp, and products made from industrial hemp, will contain at least some levels of THC and CBD and therefore trigger the requirement for ACVM registration before importation, manufacture, sale, or use in New Zealand.

Other non-feed animal care products made from industrial hemp, including CBD-based veterinary medicines, skin care products, shampoos, and calming or behavioural management products, are classed as veterinary medicines under the ACVM Act. These products, whether they are intended for companion or food-producing animals, require ACVM registration before they can be imported, manufactured, sold or used as veterinary medicines. Importation, manufacture, sale, or use of unregistered veterinary medicine products without ACVM registration or authorisation would be an offence under the ACVM Act, as well as the Medicines and Misuse of Drugs Acts.

For more information on the use of hemp and hemp products as animal feeds, please contact MPI at approvals@mpi.govt.nz.

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Hemp and hemp-based products used as agricultural compounds: Animal feeds and animal treatment products

November 2018

Recent media comments that it is legal to use unprocessed harvested hemp, or hemp products such as baleage or silage, as an animal feed in New Zealand are incorrect.

Hemp or hemp products used as animal feed are regulated under the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997, and are classed as agricultural compounds. It is an offence against the ACVM Act to import, manufacture, sell or use any agricultural compound that is not authorised (either registered as a trade name product or exempt from registration subject to compliance with the conditions of exemption). There are currently no hemp or hemp products for animal feed registered as trade name products, and the exemption status of these products has not been confirmed at this time.

Tetrahydrocannabinols, the chemicals in hemp which include THC, cannabidiol (CBD), and related compounds, and any preparation or plant containing them, are classed by the Ministry of Health as controlled drugs under the Misuse of Drugs Act 1975. Under the ACVM Act, controlled drugs and anything containing them must only be given to or fed to animals after registration under the ACVM Act. When products are registered, MPI applies strict controls and conditions of sale and use.

Hemp-based nutritional products for animals, such as hemp protein powders, could be considered exempt from registration if they have no detectable tetrahydrocannabinols (including THC and CBD) and meet all other the requirements for exemption status under the ACVM Act and regulations. (If a product is determined as exempt from registration, the exemption applies only if the controls and conditions are adhered to.)

Feeding unprocessed, harvested hemp to animals without registration is not permitted under the ACVM Act and may also be an offence under the Misuse of Drugs Act. (Misuse of Drugs Act offences are a matter for the Police.)

Feed products made from processed hemp, like hemp protein powders, can only legally be fed to, or used on, animals if it can be proved that there are no detectable tetrahydrocannabinols and they meet the requirements for an exemption from registration.

Unprocessed or minimally processed hemp products, like hemp crops used for grazing, baleage, or silage will contain tetrahydrocannabinols and therefore cannot be used as animal feed at all.

Hemp-based products intended for animal use with actions that rely on the presence of CBD, such as skin care products, shampoos, and calming or behavioural management products, are not permitted to be imported, manufactured, sold, or used in New Zealand unless registered under the ACVM Act.

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