

# COMANCHE

September 8, 2020

Sent Via Email to: [farmbill.hemp@usda.gov](mailto:farmbill.hemp@usda.gov)

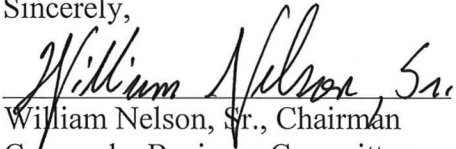
USDA/AMS/Specialty Crops Program  
Hemp Branch  
470 L'Enfant Plaza S.W.  
P.O. Box 23192  
Washington, D.C. 20026

## Re: Comanche Hemp Plan Submission

Dear Secretary Perdue:

Enclosed for your review and approval is the Comanche Hemp Plan ("Plan"). The Comanche Business Committee found it necessary to enact the Plan in order to authorize and regulate Hemp cultivation within the jurisdiction of the Comanche Nation. Please also find enclosed for your review the Hemp Program Certification and Resolution No. 108-2020 approving the Plan. Should you have any questions or require additional documentation, please contact Chairman William Nelson by email at [William.Nelson@comanchenation.com](mailto:William.Nelson@comanchenation.com).

Sincerely,

  
William Nelson, Sr., Chairman  
Comanche Business Committee

Encl.:

Resolution No. 108-2020  
Comanche Hemp Plan  
Hemp Program Certification

# COMANCHE

**COMANCHE BUSINESS COMMITTEE RESOLUTION ENACTING THE  
COMANCHE HEMP PLAN AND AUTHORIZING THE CHAIRMAN OF THE  
COMANCHE NATION TO SIGN THE HEMP PROGRAM CERTIFICATION AND  
SUBMIT THE COMANCHE HEMP PLAN TO THE UNITED STATES DEPARTMENT  
OF AGRICULTURE**

**WHEREAS**, the Comanche Nation is a federally-recognized Indian Tribe with a Constitution approved by the Secretary of the Interior on January 9, 1967, to safeguard tribal rights, powers, and privileges to improve the economic, moral, educational, and health status of its members; and

**WHEREAS**, the Comanche Nation Constitution, Article 6, Section 7, establishes the Comanche Business Committee as the duly elected official body designated to conduct business for and on behalf of the Comanche Nation in a legal quorum; and

**WHEREAS**, the Comanche Business Committee desires to exercise primary regulatory jurisdiction over Hemp cultivation within the Comanche Nation; and

**WHEREAS**, hereby recognizes hemp as part of the agricultural product; and

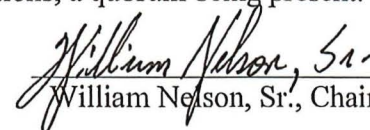
**NOW, THEREFORE BE IT ENACTED**, the Comanche Business Committee, hereby authorizes hemp cultivation within the jurisdiction; and

**THEREFORE, BE IT ENACTED**, the Comanche Business Committee delegates regulatory authority to the Tax Commission; and

**BE IT NOW FURTHER RESOLVED**, the Comanche Business Committee authorizes and directs the Chairman of the Comanche Business Committee to sign the Hemp Program Certification and submit the Comanche Hemp Plan to the United States Department of Agriculture to obtain approval.

## CERTIFICATION

The foregoing Resolution was adopted at a regular monthly meeting of the Comanche Business Committee held on the 5<sup>th</sup> day of September, 2020, at the Comanche Tribal Complex, Lawton, Oklahoma, by a majority vote of 6 for, 0 against, and 0 abstentions, a quorum being present.

  
William Nelson, Sr., Chairman

**ATTEST:**

  
Robert Tippeconnie, Secretary/Treasurer

# HEMP CULTIVATION PLAN

## **Section # 101 – Authorized Conduct:**

The Comanche Nation authorizes Hemp cultivation and establishes primary regulatory authority over Hemp cultivation within the jurisdiction of the Comanche Nation.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

## **Section # 102 – Definitions:**

As used in this Plan, unless the context otherwise requires, the term:

- (a) “Acceptable Hemp THC Level” means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The Acceptable Hemp THC Level for the purpose of compliance with the requirements of this hemp plan is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.45% and the measurement of uncertainty is +/-0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for the purpose of compliance. This definition of Acceptable Hemp THC Level affects neither the statutory definition of hemp, 7 U.S.C. 1639o(1), in the 2018 Farm Bill nor the definition of “marihuana,” 21 U.S.C. 802(16), in the Controlled Substances Act.
- (b) “AMS” means the United States Department of Agriculture Agricultural Marketing Service.
- (c) “Business day” means any calendar day except Saturday, Sunday, and any federal holiday.
- (d) “CBC” means the Comanche Business Committee.
- (e) “Commission” means the Comanche Tax Commission established under the General Revenue & Taxation Act of 1995.
- (f) “DEA” means the U.S. Drug Enforcement Administration.
- (g) “Dry Weight Basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance.

- (h) “FSA” means the United States Department of Agriculture Farm Service Agency.
- (i) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, whether growing or not, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (j) “Key Participant” is a person or persons who have a direct or indirect financial interest in the entity cultivation of Hemp, such as an owner or partner in a partnership. A Key Participant also includes individuals in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer. This does not include management as farm, field or shift managers.
- (k) “License” means the official and legal privilege and authority, granted by the Commission to a Licensee to engage in the cultivation of Hemp. A License is a revocable privilege and not a vested right
- (l) “Licensee” means any person licensed by the Commission to engage in cultivation of Hemp.
- (m) “Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of Cannabis throughout. In addition, “Lot” is a common term in agriculture that refers to the batch or contiguous, homogeneous whole of a product being sold to a single buyer at a single time. Under the terms of this Plan, “Lot” is to be defined by the Licensee in terms of farm location, field acreage, and variety (i.e., cultivar) and to be reported as such to the FSA.
- (n) “Plant” means all parts of the plant species *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.
- (o) “Secretary” means the Secretary of Agriculture.
- (p) “THC” means delta-9- tetrahydrocannabinol concentration (the primary intoxicating component of Cannabis).
- (q) “USDA” means the United States Department of Agriculture.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 103 – Regulation of Hemp Cultivation:**

- (a) Establishment. A regulatory program is hereby established under the Commission, and the initiation, administration, regulation, and enforcement of Hemp cultivation shall be the responsibility of the Commission.
- (b) Powers. The Commission may exercise the following powers to properly regulate Hemp cultivation:
  - (1) conduct random inspections of Licensees pursuant to Section 105 to ensure compliance with the laws of the Comanche Nation and applicable federal law;
  - (2) propose regulations to the CBC necessary to carry out the implementation of this Plan; or
  - (3) delegate duties related to inspecting, sampling and testing to be conducted by a professional of the Comanche Agriculture Program.
- (c) Duties. The Commission shall:
  - (1) draft applications pursuant to Section 104(b);
  - (2) assign Licenses pursuant to Section 104(d);
  - (3) conduct an annual inspection of Licensees pursuant to Section 105;
  - (4) sample Plants pursuant to Section 106(a);
  - (5) conduct testing pursuant to Section 106(b);
  - (6) maintain records received by applicants under Section 104(c) for at least three (3) years;
  - (7) maintain investigation findings pursuant to Section 105 for at least three (3) years;
  - (8) maintain all reports submitted by Licensee pursuant to Section 104(f) for at least three (3) years;
  - (9) draft and submit the Licensee Report pursuant to Section 107(a) to USDA prior to the first Business Day of each month;
  - (10) submit the Hemp Disposal Report received by Licensee pursuant to Section 107(b) to USDA prior to the first Business Day of each month;
  - (11) promptly notify USDA by certified mail or electronically of any Test Results Report received under Section 104(f)(3);

- (12) draft and submit the Annual Report to USDA prior to December 15 pursuant to Section 107(d);
- (13) receive information under Section 107(e) from Licensee and submit it to the USDA within thirty (30) days of receipt and in a format compatible with USDA's information sharing systems;
- (14) establish a Corrective Action Plan pursuant to Section 108(a)(2);
- (15) conduct inspections of Licensees who negligently violated this Plan; and
- (16) provide notice required under Section 108(b) for violations where Licensee had a culpable mental state greater than negligence.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 104 – Hemp Cultivation License:**

- (a) License Required. Any person Cultivating or intending to Cultivate Hemp within the Comanche Nation's jurisdiction shall obtain a License from the Commission.
- (b) Application Contents. The Application shall include:
  - (1) contact information of the applicant including their full name, mailing address, telephone number, email address;
  - (2) contact information for business entity applicants including the full name of entity, address for principal place of business, and the job title for each Key Participant, the full name of each Key Participant, EIN number for each Key Participant and email address for each Key Participant;
  - (3) location of where Hemp will be Cultivated including street address, legal description of land, geospatial location for each Lot, and the acreage number or greenhouse square footage dedicated to Hemp cultivation; and
  - (4) a current Federal Bureau of Investigation Identity History Summary ("Criminal History Report") dated within sixty (60) days of submission of the application for each individual applicant and the Key Participant of each business entity applicants.
- (c) Application.
  - (1) Any person may submit an application to the Commission. The application will be used for both new applicants and Licensees seeking renewal of their License.
  - (2) Any applicants who materially falsifies any information in the application shall be automatically deemed ineligible to participate as a Licensee.

- (d) Issuance of License.
- (1) Licenses shall be valid until December 31 three (3) years after the License was issued.
  - (2) A License is a revocable privilege to conduct Hemp cultivation from within the Comanche Nation's jurisdiction.
  - (3) Licenses are non-transferable or assignable unless approved in writing by the Commission.
  - (4) Licenses must be provided in a format prescribed by the USDA.
- (e) Eligibility. Any person convicted of a felony relating to a controlled substance within any jurisdiction of the United States of America before, on or after the date of the enactment of this Plan shall be ineligible to receive a License under Section 104(d), during the ten (10) year period following the date of the conviction unless the person was lawfully growing Hemp under the 2014 Farm Bill before December 20, 2018 and whose felony conviction occurred before December 20, 2018.
- (f) Duties of Licensee. Licensees shall:
- (1) provide fifteen (15) days notice to the Commission of harvest date to schedule sampling as required under 106(a)(1);
  - (2) attend investigations and sampling of Plants conducted by Commission or cause an authorized representative of Licensee to be present during an investigation or sampling;
  - (3) promptly send the Commission the Test Results Report received pursuant to Section 106(b)(10);
  - (4) dispose of Lot if testing indicates Plants contain higher than the Acceptable Hemp THC Level in accordance with the Controlled Substances Act and DEA regulations found at 21 CFR 1317.15;
  - (5) create and promptly send Commission the Hemp Disposal Report pursuant to Section 107(b);
  - (6) maintain records regarding acquisition of Plants for at least three (3) years;
  - (7) maintain records regarding cultivation and handling of Plants for at least three (3) years;
  - (8) maintain records regarding storage of Plants for at least three (3) years;
  - (9) maintain records of all Test Results Reports received pursuant to Section 106(b)(10) for at least three (3) years;

- (10) maintain records of all Hemp Disposal Reports created pursuant to Section 107(b) for at least three (3) years;
- (11) prepare and submit information required under Section 107(e) to the Commission each month;
- (12) make all records and reports available for inspection by the Commission;
- (13) bear any costs associated with Section #104(f) and Section 106;
- (14) provide Commission with unrestricted access during business hours to all Plants whether growing or harvested, and all land, buildings, and other structures used for cultivation, handling or storage; and
- (15) prepare and submit the following information to FSA each month:
  - I. street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced. If a Licensee operates in more than one location, that information shall be provided for all production sites.
  - II. acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp; and
  - III. License or authorization identifier.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 105 – Inspections:**

Inspections may include sampling and testing by the Commission to determine Plant compliance with the Acceptable Hemp THC Level. Commission inspections shall be conducted on a Business Day during normal business hours. All samples collected by the Commission become the property of the Comanche Nation and no compensation by the Comanche Nation or the Commission is required. Licensees do not have a reasonable expectation to privacy with respect to buildings or sites where Hemp is located.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 106 – Sampling, Testing and Harvesting:**

- (a) Sampling. The sampling process shall be conducted as follows:
  - (1) within fifteen (15) days of the anticipated harvest date, the Commission shall collect samples from the flower material of Plants;
  - (2) the Commission must certify the method used for sampling the flower material of the Plant represents a homogeneous composition of the Lot and



was sufficient at a confidence level of 95% that no more than 1% of the Plants in the Lot would exceed the Acceptable Hemp THC Level; and

- (3) Commission shall transport sample to a DEA registered laboratory.
- (b) Testing. Testing shall be conducted by a DEA registered laboratory as follows:
- (1) completed using post-decarboxylation where the total THC concentration level reported accounts for the conversion of Delta-9 Tetrahydrocannabinol acid (“THCA”) into THC and reported by the DEA registered testing laboratory on a Dry Weight Basis;
  - (2) testing methodologies meeting the requirements of this paragraph include, but are not limited to, gas or liquid chromatography with detection;
  - (3) laboratory quality assurance must ensure the validity and reliability of test results;
  - (4) analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
  - (5) the demonstration of testing validity must ensure consistent, accurate analytical performance;
  - (6) method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this Plan;
  - (7) measurement of uncertainty shall be estimated and reported with test results;
  - (8) laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluations of measurement of uncertainty;
  - (9) any laboratory used under this Section of the Plan must have an effective destruction procedure in accordance with 21 C.F.R. § 1317.15 for samples that exceed the Acceptable Hemp THC Level;
  - (10) DEA registered laboratory shall ensure results are sent to Licensee; and
  - (11) Licensee may request additional testing if it is believed test results were in error.
- (c) Harvesting. A harvest must occur no later than fifteen (15) days from when a sample pursuant to this Plan was collected. If a harvest does not occur within fifteen (15) days of the sample, a second pre-harvest sample of the Lot must undergo

testing. Harvested Lots may not be comingled with other harvested Lots or other material without prior written permission from the USDA. A harvest of any cannabis may not occur prior to samples being taken. Any Hemp grown in a lot where the Acceptable Hemp THC Level is noncompliant may not be processed or enter the stream of commerce and must be handled pursuant to Section 104(f)(4).

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 107 – Reports:**

- (a) Licensee Report. The Licensee Report shall include:
  - (1) full name of individual Licensee;
  - (2) full name of entity Licensee;
  - (3) full name of entity Key Participants;
  - (4) position title of Key Participants;
  - (5) License number;
  - (6) legal description of location where Hemp is being produced;
  - (7) EIN number for each Key Participant;
  - (8) telephone number for each Key Participant;
  - (9) updated information from previous Licensee Report's
  - (10) status of each Licensee;
  - (11) time period covered by each Licensee Report;
  - (12) indication of whether reporting cycle did not contain any changes.
  
- (b) Hemp Disposal Report. The Hemp Disposal Report shall include:
  - (1) name and address of Licensee;
  - (2) License number;
  - (3) location information, such as Lot number, legal description, location type, and geospatial location or other valid land descriptor for the production area subject to disposal;
  - (4) total acreage or greenhouse square footage;
  - (5) information on the agent handling the disposal;

- (6) date of the completion of disposal;
  - (7) signature of the Licensee;
  - (8) Commission agent certification of the completion of the disposal.
- (c) Test Results Report. The Test Results Report shall include:
- (1) name and address of Licensee;
  - (2) License number;
  - (3) location information, such as legal description, location type, and geospatial location;
  - (4) Lot number for where sample was taken;
  - (5) Name and DEA registration number of the laboratory;
  - (6) general information identifying that the Hemp that is the subject of the certificate of analysis is the product of a sample tested by the DEA registered laboratory;
  - (7) the date the Hemp was sampled, the date testing was performed, and methodology used to analyze the sample;
  - (8) the THC concentration contained in the test sample; and
  - (9) a statement indicating whether the sample contained a THC concentration of not more than the Acceptable Hemp THC Level.
- (d) Annual Report. The Annual Report shall include:
- (1) total Hemp acreage or greenhouse square footage planted by all Licensees;
  - (2) total Hemp acreage or greenhouse square harvested by all Licensees;
  - (3) total amount of Plants disposed of by all Licensees; and
  - (4) all Test Results Reports from Licensees for the year.
- (e) Information Sharing Report. The Information Sharing Report shall include:
- (1) location information, such as Lot number, legal description, location type, and geospatial location;
  - (2) License number issued to Licensee by Commission; and
  - (3) acreage or greenhouse square of Hemp planted;

- (4) acreage or greenhouse square footage amount of Hemp harvested;
- (5) amount of Plants disposed of.

[History: PUBLIC LAW # 108-2020, September 05, 2020]

**Section # 108 – Violations:** Violations shall be subject to enforcement in accordance with this Section 108.

(a) Negligent Violations.

- (1) A Licensee is subject to enforcement for negligently:
  - I. failing to provide an accurate legal description of land on which Licensee Cultivates Hemp;
  - II. failing to obtain or renew a License from the Commission; or
  - III. producing Cannabis sativa L. with a THC concentration of more than the Acceptable Hemp THC Level, unless the Licensee made a reasonable attempt to grow Hemp and the THC level did not exceed 0.5 percent on a Dry Weight Basis.
- (2) If a Licensee committed a negligent violation pursuant to Section 108(a)(1), the Licensee shall comply with the terms of a Corrective Action Plan, which at a minimum shall:
  - I. provide a date by which the Licensee must correct the Negligent violation
  - II. include steps required by the Commission to correct each negligent violation; and
  - III. require the Licensee to provide a description of procedures to the Commission demonstrating compliance with the Corrective Action Plan;
  - IV. be in place at a minimum for two (2) years.
- (3) A Licensee that negligently violates this Plan according to Section 108(a)(1) shall not, as a result of that violation, be subject to any criminal enforcement action by the federal government or any state government or the Comanche Nation.
- (4) If a Licensee commits a subsequent violation while the Corrective Action Plan is still in effect, the Commission shall require the Licensee to maintain

a heightened level of quality control, require staff training and take quantifiable action measures.

(5) A Licensee that negligently violates this Plan according to Section 108(a)(1) three (3) times in a five (5) year period shall have their License revoked and be ineligible to cultivate Hemp within the jurisdiction of the Comanche Nation for a period of five (5) years beginning on the date of the third violation.

(b) Culpable Mental State Greater than Negligence. If the Commission determines that a Licensee has violated this Plan with a culpable mental state greater than negligence, the Commission shall immediately report the Licensee to:

(1) the United States Attorney General; and

(2) the Comanche Nation Police Department.

Section 108(a) does not apply to violations where the Licensee has a culpable mental state greater than negligence.

[History: PUBLIC LAW # 108-2020, September 05, 2020]



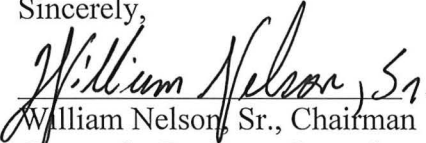
## COMANCHE NATION

### HEMP PROGRAM CERTIFICATION

I hereby certify that the Comanche Tax Commission a regulatory subdivision of the Comanche Nation, has the resources and personnel necessary to carry out the practices and procedures described in the Comanche Hemp Plan in accordance with Section 297(B)(a)(2) of the Agriculture Improvement Act of 2018 and regulations promulgated thereunder.

Date: 09/08/2020

Sincerely,

  
William Nelson, Sr., Chairman  
Comanche Business Committee