



# Prairie Band Potawatomi Nation Tribal Hemp Plan

06-29-23

**Prairie Band Potawatomi Nation  
Tribal Hemp Plan**

06-29-23

The Prairie Band Potawatomi Nation (the “Nation”) is a Federally recognized Indian Tribe. The Farm Bill of 2018, Section 297 A, identifies an Indian Tribe by the meaning given in section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 5304). The Nation meets the definition of an Indian Tribe eligible to participate in the production of Hemp as defined in the Farm Bill of 2018. The Nation desires to have primary regulatory authority over the production of Hemp in the territory of the Nation.

This Prairie Band Potawatomi Nation Tribal Hemp Plan (“Tribal Hemp Plan”) has been drafted by the Nation to assert its Tribal sovereignty and to regulate Hemp as an agriculture commodity in compliance with federal and Tribal laws. The Prairie Band Potawatomi Nation Tribal Council has signed a resolution authorizing this plan to be submitted to the United States Department of Agriculture (USDA).

The Nation’s administrative offices are located on the Prairie Band Potawatomi Nation Reservation in Mayetta, Kansas. All Hemp growers, processors, handlers, applicants, and agents within the jurisdiction of the Nation are bound by all Prairie Band Potawatomi Nation laws, including ordinances, codes, policies, and procedures. By receiving approval of the Nation to commence activity for any Hemp related business, an applicant submits to the jurisdiction of the Prairie Band Potawatomi Nation.

The Tribal Hemp Plan meets all the requirements outlined in SEC. 297B State and Tribal Plans of the 2018 Farm Bill.

- A. Maintain relevant information regarding land on which Hemp is produced in the territory of the Indian Tribe, including a legal description of the land for a period of not less than three (3) years
- B. Adhere to a procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of Hemp produced in the territory of the Indian Tribe
- C. Adhere to a procedure for the effective disposal of products that are produced in violation of this subtitle
- D. Adhere to a procedure to comply with the enforcement procedures under subsection; and
- E. Any other practice or procedure

## **Section 1: Definitions.**

The Tribal Hemp Plan applies the following definitions:

“Acceptable Hemp THC Level” means when a laboratory tests a sample, it must report the total 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 state, tribal, or USDA Hemp plans is when the application of the measurement of uncertainty to the reported total 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 total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% 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 plan 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 CSA.

“Applicant” means a Person who submits an application to participate in the Prairie Band Potawatomi Nation Tribal Hemp Plan.

“Application” means a formal request to the Nation to plant Hemp.

“Approved Seed” means seed for which a certificate or other instrument has been issued by a review board or certifying agency authorized under the laws of the Nation, a state, federal law, any other federally recognized Indian Tribe, or U.S. territory or possession to certify Hemp seed varieties if cultivated to maturity would test at or below 0.3% delta-9-THC concentration on a dry weight basis.

“Business Entity” means any Person other than a natural person.

“Cannabis” means a genus of flowering plants in the family Cannabaceae.

“CSA” means Controlled Substances Act.

“Culpable Mental State greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.

“Cultivate” means to plant, water, grow, or harvest a plant or crop.

“DEA” means Drug Enforcement Administration.

“FSA” means the Farm Service Agency.

“GPS” means Global Positioning System.

“Growing site” has the same meaning as “registered land area” as that term is defined in this section.

“Hemp” means all parts and varieties of the plant *Cannabis sativa* L. containing no greater than 0.3% total tetrahydrocannabinol on a dry weight basis.

“Hemp grower” means a Person licensed by the Prairie Band Potawatomi Nation to cultivate Hemp within the Territory of the Indian Tribe as defined in 7 C.F.R. 990.1.

“Key Participant” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

“Licensee” has the same meaning as “Hemp grower” as that term is defined in this section.

“Lot” refers to a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of *Cannabis* throughout. Under the terms of this part, “lot” is to be defined by the producer in terms of farm location, field acreage, and variety (i.e., cultivar) and to be reported as such to the FSA.

“Marijuana” means as defined in the CSA, “marihuana” means all parts of the plant *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. The term “marihuana” does not include Hemp, as defined in section 297A of the Agricultural Marketing Act of 1946, and 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 (7 U.S.C. 1639o). “Marihuana” means all *Cannabis* that tests as having a concentration level of THC on a dry weight basis of higher than 0.3%.

“Nation” means the Prairie Band Potawatomi Nation.

“Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with the rules set forth under the Tribal Hemp Plan.

“Non-retrievable” means the process utilized to render a substance “non-retrievable” shall permanently alter the substance’s physical or chemical condition or state through irreversible means and thereby render the substance unavailable and unusable for all practical purposes. A

substance is considered “non-retrievable” when it cannot be transformed to a physical or chemical condition or state as a controlled substance or controlled substance analogue.

“Person” means a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a tribal, state, or local government entity.

“Process” means to convert any portion of a Hemp crop into a Hemp ingredient, Hemp product, or other marketable form.

“Registered land area” means a contiguous lot, parcel, or tract of land registered with the Prairie Band Potawatomi Nation on which a licensee may cultivate Hemp. A registered land area may include land and buildings that are not used to cultivate Hemp.

“Reservation” means all territory within the exterior boundaries of the area recognized as the Prairie Band Potawatomi Nation’s Reservation and all other territory: (1) which is or in the future may be located outside of said boundaries; and (2) to which it is possible to extend the Nation’s jurisdiction or authority, including, without limitation, territory within the exterior boundaries of Indian country of the Nation or of its members and all property held by the United States in trust for the Nation or for a member of the Nation.

“THC” means tetrahydrocannabinol and has the same meaning as delta-9 THC, measured post-decarboxylation.

“Volunteer Plant” refers to any Cannabis plant that grows of its own accord in a field in the year(s) after a Cannabis crop was intentionally planted.

## **Section 2: Application Process**

The Tribal Hemp Plan will outline the issuance of licenses to those who meet all requirements as set forth in this plan. The Nation will collect, maintain, and provide the USDA with contact information required by 7 C.F.R. 990.3(a)(1) of each licensee. The Nation will ensure its Licensees submit the annual crop report with the information required in 7 C.F.R. 990.7 to the FSA. The Nation will maintain and report to the USDA the status of licensed producers and any changes to the application packet of the licensee.

Any Person cultivating Hemp for commercial purposes is required to apply to the Prairie Band Potawatomi Nation for a license and must submit all required forms in the Nation’s license application packet.

Applications for Hemp Production/Handling Licenses will include:

1. Legal Name
2. Address
3. Telephone Number
4. EIN (if Business Entity)
5. Registered Land Area
6. GPS Location
7. Any Other Land Identifier Used by the Nation

The Nation has established the following general requirements:

1. Applicants must submit a completed application packet along with any fees assigned by the Nation.
  - A. Applicants must consent to providing a background check and fingerprints to determine eligibility with the Tribal Hemp Plan.
    - 1) The applicant is responsible for any fees associated with the background check or fingerprints.
  - B. Applicants must submit a separate application for each non-contiguous location in which the applicant intends to grow Hemp.
2. Licenses are good up to five (5) years from the date of issuance by the Nation.
  - A. Licenses are non-transferrable and not permitted for re-sale.
3. Licenses that are compliant with the Tribal Hemp Plan are eligible for renewal for an additional term of five (5) years.
  - 1) The licensee is responsible for any renewal fee assigned by the Nation.
    - a) If the licensee does not pay the renewal fee within thirty (30) days after the license expiration date, the license is forfeit.
      - i. The licensee may restore the forfeited license upon paying the renewal fee in full plus an additional penalty fee of 15% of the unpaid fee amount.
      - ii. The Nation may waive the penalty fee upon appeal if the licensee meets certain criteria.
    - 2) The licensee must consent to providing a background check and fingerprints to determine continued eligibility with the Tribal Hemp Plan upon renewal.
      - a) The licensee is responsible for any fees associated with the background check or fingerprints.
  4. The Nation requires that licensees report crop acreage and any other information required in 7 C.F.R. 990.7 to the FSA.
  5. The Nation will retain all information submitted by applicants for a period no less than three (3) years.

#### Eligible Applicants

Applicants that are eligible for Hemp Production/Handling licenses include:

1. Natural Persons aged eighteen (18) and over
  - A. Such Applicants may not have felony convictions relating to controlled substances within past ten (10) years.
2. Business Entity
  - A. The Applicants' Key Participants may not have felony convictions relating to controlled substances within past ten (10) years.

### Ineligible Applicants

Applicants that are ineligible for Hemp Production/Handling licenses include:

1. A licensee that commits a negligent violation three (3) times in a five (5) year calendar period shall be ineligible to produce Hemp for a period of five (5) calendar years beginning on the date of the third violation; or
2. Any person convicted of a felony relating to controlled substance under Tribal, state, or federal law in the ten (10) year calendar period prior to the application date; or
3. Any Business Entity with Key Participants convicted of a felony relating to a controlled substance under Tribal, state, or federal law in the 10-year calendar period prior to the application date; or
4. Any person who materially falsifies any information contained in an application.

### **Section 3: Performance-Based Sampling and Testing for Hemp THC**

#### Performance-Based Sampling

The Nation shall follow a Performance-Based Sampling method that conforms to eligible criteria described in 7 C.F.R. § 990.3 (A)(2)(iii)(B). The Performance-Based Sampling method, when supplemented with the Seed Certification requirement, will ensure at a confidence level of ninety-five (95) percent that all sampled plants are representative of a homogenous composition of the lot and do not exceed the acceptable Hemp THC level.

Performance-Based Sampling will include different sampling and frequency criteria based upon the following: the Producer's previous experience and compliance with approved seed varieties, the type of hemp planted, the maturity of the hemp planted, and whether the hemp is intended to be entered into a stream of commerce.

The Nation reserves the right to conduct sampling and testing methods on any Hemp crop at any time to evaluate department protocols for research and quality assurance.

1. Floral Hemp Varieties
  - A. CBD, Hemp Flower

2. Industrial Hemp Varieties
  - A. Fiber, Grain, Seeds
  - B. Dual Purpose, Multipurpose
3. Immature Hemp Plants
  - A. Hemp Propagative Material and Hemp Clones
  - B. Hemp Mother Plants
  - C. Hemp Greens
  - D. Hemp Microgreens
4. Hemp Not Intended for Harvest
  - A. Research and Development Hemp Varieties
  - B. Government Land Management Programs

The Nation has established these following general requirements for Performance-Based Sampling:

1. Floral Hemp Varieties. Floral Hemp varieties are Hemp plants grown to maximize flower growth and cannabinoid production.
  - A. Floral Hemp varieties may be exempt from sampling and testing methods, provided:
    - 1) The Licensee has produced Floral Hemp for three (3) consecutive growth cycles, with the same Hemp variety and has successfully been sampled and tested below the Hemp THC concentration levels in each cycle.
      - a) Licensees that do not meet the above criteria will be subject to standard sampling and testing methods on a yearly basis.
  - B. The Nation will, at a minimum, randomly subject twenty (20) percent of its Licensees to sampling and testing methodology on an annual basis.
    - 1) All Licensees, regardless of exemption status, are subject to random sampling and testing to meet this quota.
2. Industrial Hemp Varieties. Industrial Hemp varieties are Hemp plants grown for fiber, grain, seeds, and dual or multipurpose production.
  - A. Industrial Hemp grown for fiber, grains, and/or seeds may be exempt from sampling and testing methods, provided:
    - 1) The Licensee has previously produced Industrial Hemp for one (1) growth cycle, with the same Hemp seed variety, and has successfully been sampled and tested below the Hemp THC concentration levels.
      - a) Licensees that do not meet the above criteria will be subject to standard sampling and testing methods on a yearly basis.
3. Immature Hemp Plants. Immature Hemp plants are Hemp plants that have not yet entered the flowering stage and do not have buds.
  - A. Hemp propagative materials and Hemp clones will be exempt from all sampling and testing methods.



- 1) The Tax Commission will subject the mature Hemp crop produced from these Hemp propagative materials and/or Hemp clones to Performance Based Sampling methodology described elsewhere in this section.
- B. Hemp Mother Plants, which Licensees use for the purposes of Hemp cloning, may be subjected to sampling and testing at random at any time.
- C. Hemp Greens will be exempt from all sampling and testing methods, provided:
  - 1) The Licensee harvests the Hemp crop before the Hemp plants enter the flowering stage and the Hemp plants are no more than ten (10) inches tall.
- D. Hemp Microgreens will be exempt from all sampling and testing methods, provided:
  - 1) The Licensee harvests the Hemp crop before the Hemp plants enter the flowering stage and no more than fourteen (14) days have passed since germination.
4. Hemp Varieties Not Intended for Harvest. Hemp plants that will not enter a stream of commerce include Hemp varieties that are used for research and development purposes and various Government Land Management practices.
  - A. Hemp varieties that Licensees plant for research and development purposes will be exempt from all sampling and testing methods, provided:
    - 1) The Licensee adheres to Producer Reporting requirements listed in Section 5: Enforcement Procedures.
    - 2) The Licensee provides verification of disposal with pictures, videos, or other proof of disposal after completion.
  - B. Government Land Management programs that plant Hemp for research and development purposes and/or to assist in the management and stewardship of the Nation's territories will be exempt from all sampling and testing methods, provided:
    - 1) The Government Land Management programs apply to become a Hemp Production and Handling Licensee and adhere to all licensing requirements listed in Section 2: Application Process.
    - 2) The Licensee adheres to Producer Reporting requirements listed in Section 5: Enforcement Procedures.
    - 3) The Licensee provides verification of disposal of Hemp with pictures, videos, or other proof of disposal after completion.
  - C. If the Licensee intends to enter any Hemp that results from research and development or Government Land Management programs into a stream of commerce, the Tax Commission will subject the Hemp crop to sampling and testing methodology described elsewhere in this section.

### Pre-Sample Preparation

The Nation establishes the following sampling guidelines prior to sample collection and laboratory testing:

1. Approved Sampler

A. The Nation will designate an employee or third-party vendor to serve as an approved sampler that will collect all Hemp samples eligible under the Tribal Hemp Plan.

1) Licensees are responsible for any fees associated with hemp sampling.

B. Samplers must be compliant with applicable Nation sampling guidelines.

1) The Nation will maintain and provide information on all approved samplers to its licensees upon request.

C. The Nation requires the approved sampler to have complete and unrestricted access to any lot, registered land area, or facility used for Hemp production and handling during normal business hours.

D. Samplers must have the necessary supplies and equipment to carry out proper sampling techniques.

2. Time of Sampling

A. Within thirty (30) days prior to the anticipated harvest of Hemp plants, the sampler shall collect representative samples from the lot to test for compliance.

B. Licensees may not harvest any Hemp prior to the sampler adequately sampling the lot. Failure to adhere to this regulation can result in ineligibility for renewal for one (1) year.

1) However, licensees may voluntarily collect and test Hemp and Hemp product samples for quality assurance and/or research and development purposes prior to official sampling by the sampler.

a) The Nation will not count these self-test results toward compliance with the acceptable Hemp THC levels requirement.

C. Licensees have thirty (30) days from the date of sampling to complete their entire harvest.

1) If the Licensee is unable to complete their harvest within thirty (30) days, the sampler may collect additional samples from unharvested hemp and the Licensee may resume their harvest for an additional thirty (30) days.

a) Licensees may extend their harvest window up to thirty (30) days with each additional sampling, as many times as necessary to complete their harvest.

3. Number of Hemp Samples

A. To determine the number of Hemp samples to collect, the sampler will consider the size of the growing site.

1) For lots less than ten (10) acres, the sampler will collect at a minimum one (1) Hemp sample per acre of the registered land area. For example, if the lot is comprised of six (6) acres, the sampler will collect six (6) samples and combine them into a composite sample.

2) For lots greater than ten (10) acres, the sampler will collect at a minimum ten (10) Hemp samples to be representative of the registered land area.

- a) The Nation developed the minimum number of samples per acre size based upon Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999.
- b) Using the Nation's program data, the Nation used the proportion of Hemp plants having Hemp THC content above the acceptable threshold and the number of acres under cultivation to calculate the minimum number of samples needed per lot.
  - i. The Nation will continue to monitor the program data to determine if the minimum number of samples needs to be updated.

#### 4. Site Preparation

- A. The licensee, or an authorized representative of the licensee, must be present at the growing site during sample collection.
- B. The sampler shall document the methods used during the collection process and provide that to the Nation.
- C. The sampler shall document general surveillance of the growing site.
  - 1) The sampler shall verify the GPS coordinates of the growing site as compared with the GPS coordinates submitted by the licensee to USDA.
  - 2) The sampler shall estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the flowering material, meaning inflorescences (flowers/buds).
  - 3) The sampler shall visually inspect and grind samples to establish the homogeneity of the plant material and demonstrate that the growing site is of like variety prior to testing.

#### Sample Collection

The Nation establishes the following guidelines to ensure its approved samplers adequately sample Hemp lots eligible under the Tribal Hemp Plan:

1. The sampler shall not commingle Hemp samples from one lot with samples from another lot.
  - A. The sampler shall utilize a paper sample bag for collecting all Hemp samples and seal each bag with tamper resistant tape before moving onto the next lot.
  - B. The Hemp sample shall be identified with the following information:
    - 1) Sampler Contact Information
    - 2) Name and Contact Information of the Producer
    - 3) Producer Hemp license or Authorization Number
    - 4) Date of Sample
    - 5) Lot ID
    - 6) Any other information required by the Nation

2. The sampler shall collect Hemp samples five (5) to eight (8) inches from the main stem, terminal bud, or central cola of the flowering top of the plant.
3. The sampler shall collect samples at random, but convenient distances.
4. The sampler shall walk at right angles to the rows of plants, beginning at one point of the lot and walking towards another point on the opposite side of the lot.
5. The sampler shall avoid collecting too many samples from the borders of the registered land area.

## Testing

The Nation will use an approved lab to perform the specimen testing for measurement of tetrahydrocannabinol (THC). The sampling will be done within thirty (30) days prior to anticipated harvest date. The Tribal Hemp Plan outlines the procedures the Nation will take to provide an approved lab with samples. The lab used will report the test data in accordance with 7 CFR Part 990. The lab will submit test results to the USDA using the Hemp eManagement Platform (HeMP).

1. A Hemp grower that does not test compliant for THC concentration as directed in the Tribal Hemp Plan will adhere to the guidance for negligent violations, corrective action plans, disposal, and/or remediation.
2. The testing method for THC concentration will use:
  - A. Analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels, which must use post-decarboxylation or other similarly reliable methods approved by the USDA and the Nation.
  - B. Measurement of THC and THC acid (THCA) and the consideration of conversion of THCA into THC and report on a dry weight basis.
  - C. High-performance liquid chromatography is the chromatography testing method we have selected.
3. The lab must meet the AOAC International Standard Method Performance Requirements for selecting the methods used for testing.
4. The lab will identify the measurement of uncertainty (MU), repeatability, and reproducibility for each validated method. The lab will use the measurement of uncertainty to determine the confidence interval around the THC threshold level of 0.3%. The MU and the percentage of THC in each test will be reported on the USDA Laboratory Test Results Page.

The Nation will exclusively use DEA-registered labs to conduct testing as required by 7 C.F.R. 990.25(g)(3).

The Lab will issue a laboratory test result report for each sample. The laboratory test report shall include the:

1. Laboratory Name / City / State / DEA Registration #
2. Producer ID

3. Producer name / Street / City / State
4. Sample Lot ID
5. Testing Date
6. Results Reported Date
7. Test: Initial or Re-test
8. Result % THC
9. Measurement of uncertainty
10. Pass or Fail

#### **Section 4: Disposal and Remediation.**

The Nation has established the following disposal and remediation protocol for Hemp plants testing out of compliance above the acceptable delta-9 tetrahydrocannabinol concentration levels on a dry weight basis and the measurement of uncertainty:

1. Any sample test result that exceeds the acceptable Hemp THC level according to laboratory results obtained through Nation sampling and testing protocols shall be conclusive evidence that the lot represented by the sample is not in compliance.
  - A. A licensee who believes the test results were in error may request retesting of the lot. Such retesting shall be performed in the same way and to the same standards as the original sampling and testing.
2. Lots shall be subject to disposal or remediation; all plants in the lot shall either be remediated to bring the lot under the acceptable Hemp THC concentration level, or all plants shall be disposed of in a manner that renders it non-retrievable.
  - A. Additional sampling and testing of the post-remediated crop must occur to determine THC concentration levels before it is deemed compliant and can be entered into a stream of commerce.
3. It is the sole responsibility of the licensee to pay any fees associated with resampling, remediation, and/or disposal without compensation from the Nation.
4. Licensees will notify the Nation and the USDA of their intent to dispose or remediate noncompliant Hemp materials by submitting documentation in accordance with Nation regulations. As follow up, the licensee will provide verification of disposal or remediation documentation to the Nation and the USDA.
  - A. The Nation may require verification of disposal or remediation by requiring pictures, videos, or other proof of disposal or remediation.
  - B. The Nation may require in-person verification of disposal or remediation by assigned personnel, Nation law enforcement, or an approved reverse distributor during or after the process.

#### Disposal

Disposal means destroying noncompliant Hemp by performing any one or combination of the following on-farm activities: plowing under, mulching/composting, disking, bush mowing, deep burial, and burning.

### Remediation

Remediation refers to the following processes by which noncompliant Hemp is rendered compliant:

1. Blending or shredding the entire plant into biomass plant material
  - A. The entire lot containing noncompliant Hemp must be shredded to create a homogenous, uniform biomass using shredders, composters, or specialty mechanical equipment.
  - B. All biomass plant material created in this process must be kept separate from any compliant Hemp stored in the area and clearly labeled as Hemp for remediation purposes before its removed to enter a stream of commerce.
  - C. All biomass plant material that does not meet acceptable Hemp THC concentration levels must be disposed of, rendering the entire lot non-retrievable.
2. Disposing of floral materials and salvaging the remainder of the plant, retaining stalks, leaves, and seeds.
  - A. Licensees may remove floral materials by hand or by mechanical means and are subject to the approved disposal methods provided in this plan.
  - B. All remaining Hemp materials salvaged using this process must be kept separate and clearly labeled as Hemp for remediation purposes until the floral materials can be properly disposed of.

### **Section 5: Enforcement Procedures.**

The Prairie Band Potawatomi Nation has the authority through its Tribal Constitution and Tribal Sovereignty to adopt and enforce its own Tribal laws. The Nation has the ability by Tribal law to enforce existing and additional rules governing its Hemp production and commercialization.

1. All Licensees engaging in activities related to Hemp within the Nation's jurisdiction shall abide by the license requirements provided for under the Nation's Title 13 Business Licensing Code.
2. In addition, licensees are required to obtain all licenses required by applicable law to operate a business on territory of the Nation, including but not limited to compliance with the Nation's:
  - A. Building and Safety regulations
  - B. Health and Safety regulations
  - C. Leasing and Land Use laws
  - D. Environmental laws

3. It is the sole responsibility of the licensee under this Tribal Hemp Plan to comply with other applicable laws and regulations.
  - A. The Nation may assist licensees in identifying the necessary licenses required.

The Tax Commission will enforce the Nation's regulations and perform the duties of the Nation under this Plan. The forms collected and all information entered on the forms will be used to maintain records and enforce procedures. Non-compliance with any of the established regulations will result in immediate action depending on violation and corrective action plan.

The Nation will conduct audits of licensees and issue corrective action plans for negligent violations. Negligent violations by a Hemp grower may lead to suspension or revocation of the Hemp grower's license. The Nation will conduct both desk audits and site visit audits. When the Nation visits a licensee's site, the licensee must provide access to any fields, greenhouses, storage facilities or other locations where the licensee cultivates Hemp. The Nation may also request records from the licensee to include production and planting data, testing results, and other information as determined by the Nation.

The Nation requires the following:

1. Licensees must report any changes of their contact information to the Nation in writing within fourteen (14) calendar days of the change.
2. Pre-Planting Report. A licensee must submit a pre-planting report to the Nation no less than seven (7) days prior to the planting of any Hemp, which includes information on estimated dates of planting, Hemp seed variety name, Hemp seed Certificate of Analysis (COA), and/or the name of any pesticides intended for use.
3. Planting Report. Within fourteen (14) calendar days after the completed planting of any Hemp crop, each licensee shall submit a planting report that includes the GPS coordinates and a map showing the location and actual acreage or square feet of Hemp planted.
4. Pre-Harvest Notification. At least thirty-five (35) calendar days prior to harvest, each licensee shall submit a pre-harvest notification on a form provided by the Nation. This will initiate the sampling process. A licensee must notify the Nation immediately of any changes in the reported harvest dates in excess of seven (7) calendar days.
5. Post-Harvest Report. Within fourteen (14) calendar days post-harvest, each licensee shall submit a post-harvest report for plants that test within the acceptable limit on a form provided by the Nation. A licensee is not required to document the removal of male Hemp plants on a post-harvest report if the male Hemp plants are destroyed or utilized on the registered land area and are not transferred or sold.

#### Collection of Information

The Nation will collect relevant data and information needed to ensure reports are submitted to the USDA, as required by 7 C.F.R. 990.7 and 7 C.F.R. 990.70, in the appropriate manner and on time.

The USDA reports will include:

1. Crop Acreage Report (FSA 578) to the FSA – annual
2. Laboratory Tests Results Report to USDA – thirty (30) days after the information is received
3. State and Tribal Hemp Disposal Report to USDA – thirty (30) days after the information is received
4. State and Tribal Hemp Remediation Report to USDA – thirty (30) days after the information is received
5. State and Tribal Hemp Annual Report to USDA - Dec 15th.

The following information will be included:

1. Hemp crop acreage
2. Reporting total acreage of Hemp planted, harvested, disposed, and remediated
3. License number
4. Street address
5. GPS location of lot or greenhouse where Hemp is produced
6. Acreage of greenhouse or indoor square footage dedicated to the production of Hemp

Information sharing will be accomplished by submitting these reports with correct and updated information. The Nation is aware of the real-time information sharing efforts on behalf of the USDA and law enforcement. The Nation supports the industry and the need for up-to-date information, specifically for transporting. The Nation will share the required information on the USDA forms provided.

### Negligent Violations

A negligent violation of the Tribal Hemp Plan includes:

1. Failure to provide a legal description of the land on which the Hemp is produced.
2. Failure to obtain a license before engaging in production; or
3. Hemp plants that exceed Hemp THC concentration levels of 1.0% or more.

The Nation will not consider a licensee as committing a negligent violation if the licensee makes reasonable efforts to grow Hemp and the Hemp crop tests between the legal Hemp THC concentration level of 0.3% and 1.0% on a dry weight basis.

The Nation will issue one (1) negligent violation at most for sampling and testing violations for an entire harvest from a distinct lot for plants that exceed the acceptable Hemp THC levels but remain under the 1.0% threshold for negligent violations. In addition, the Nation will not subject licensees to more than one negligent violation per calendar year if multiple violations are found on different lots operated by the licensee.

Revised: 06/29/2023

PBPN TC Resolution: 2023-183



When the Nation determines that a negligent violation has occurred, the Nation will issue a Notice of Violation. This Notice of Violation will include a corrective action plan. The Nation will establish and review a corrective action plan with the licensee and its implementation will be verified during a future audit or site visit.

The corrective action plan will include:

1. A reasonable date by which the producer will correct the negligent violation(s).
2. A requirement that the licensee semi-annually report to Nation on its compliance with the plan for a period of not less than the next two (2) calendar years.

A licensee who has had three negligent violations in a five (5) year period is ineligible to produce Hemp for a period of five (5) years from the date of the third violation. Negligent violations are not subject to federal, state, tribal or local government criminal enforcement action. Hemp found to be produced in violation of this part, such as Hemp cultivated on a property not disclosed by the licensee would be subject to the same disposal provisions as for plants testing above the acceptable Hemp THC level. Further, if it is determined a violation was committed with a culpable mental state greater than negligence, the Nation will report the violation to the Nation's law enforcement and to the U.S. Attorney General.

If a Person produces Hemp without a license, this will be reported to the Nation's law enforcement.

The Farm Bill of 2018 limited the participation of certain convicted felons in Hemp production. A person with a Tribal, State or Federal felony conviction relating to a controlled substance is subject to a ten (10) year ineligibility restriction from the date of the conviction of producing Hemp under the Act. An exception applies to a person who was lawfully growing Hemp under the Farm Bill of 2014 before December 20, 2018, and whose conviction also occurred before that date.

#### Site Inspections

1. The Nation will conduct site visits to all registered land area(s) associated with its licensees to ensure compliance with Tribal Hemp Plan and verify Hemp is not produced with any violations.
2. Inspections will be completed no less than once annually and can be completed randomly and without notice.
3. All licensees shall grant the Nation unrestricted access to the registered land area(s) and accompanying facilities.

#### **Section 6: Any other Practice or Procedure**

#### Assignment of Hemp Production/Handling License or Authorization Numbers

The Tax Commission will assign Hemp Production/Handling license numbers that are compatible with the USDA's tracking methods.

### Pesticide Usage

The Tax Commission will only allow Licensees to use pesticide products that are registered for use on Hemp by the U.S. Environmental Protection Agency. The U.S. EPA provides a list of approved pesticides on its website and will continue to register more pesticides for use on Hemp on an ongoing basis.

1. The Licensee may not apply pesticides to Hemp unless they hold any required pesticide license and apply pesticides in accordance with Tribal or Federal regulations. The Licensee shall comply with the longest of any planting restriction interval on the product label prior to planting the Hemp. The Licensee may not use any pesticide in violation of the product label.
  - A. The Nation may perform pesticide testing on a random basis if representatives of the Tax Commission have reason to believe that a pesticide may have been applied to Hemp in violation of the product label.
  - B. Any Hemp seeds, plants, and materials bearing pesticide in violation of the label shall be subject to destruction without compensation from the Nation.

### Seed Certification

The Tax Commission requires that all Hemp seed or propagules cultivated on lands within the jurisdiction of the Nation to be obtained from the following sources:

1. Sellers or distributors of seed approved by an approved seed program of a state, Federally Recognized Indian Tribe, or the USDA.
2. Other domestic sources approved by the Tax Commission in writing for research purposes and/or commercial development.
3. Other international sources consistent with USDA requirements on seed importation regulations and all other applicable federal law.

Licensees may not acquire or cultivate Hemp or Cannabis sativa L. seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from the Tax Commission.

### Taxation

The Tax Commission, in accordance with applicable Nation law, shall enforce all applicable Nation taxes upon the growing, manufacturing, and selling of Hemp and Hemp products, subject to Tribal Council approval.

### Transportation

Revised: 06/29/2023

PBPN TC Resolution: 2023-183

The Nation requires that the licensee or other persons delegated responsibility for the transportation of the Hemp crop or Hemp product carries the following documentation with the Hemp cargo during transport:

1. Copy of the Hemp grower's License
2. Copy of the laboratory test results showing the Hemp crops or products are within acceptable Hemp THC concentration levels of the corresponding harvest lot in transit
3. Copy of an invoice/bill of lading with buyer and seller information
4. The transportation logs
5. Any other documentation that may be required by Nation regulation

A licensee may not transport live Hemp plants, viable seeds, leaf materials or floral materials not intended for resale to unlicensed or unapproved locations including trade shows, county fairs, educational or other events or to any other address not listed on that specific Hemp grower's current approved growing license agreement without the prior written approval of the Nation's Tax Commission.

#### Volunteer Plants

The Tax Commission will require Licensees to monitor and destroy all volunteer plant growth in lots or fields not meant for harvest up to (3) years past the last date of planting reported to the Tax Commission.