

# **WICHITA AND AFFILIATED TRIBES**

## **HEMP PRODUCTION CODE**

### **SECTION 1: SHORT TITLE**

This Code shall be known and may be cited as the "Hemp Production Code."

### **SECTION 2: DECLARATION OF POLICY**

It is the declared policy of the Wichita and Affiliated Tribes ("Wichita Tribe") that hemp is a beneficial agricultural crop and valuable economic commodity, and is appropriate for development into commercial enterprises within the Territory of the Wichita Tribe. The purposes of this Code are to:

- (1) Promote the legal and efficient production of hemp, and the creation of new commercial markets for producers through the sale of hemp, in accordance with the requirements and procedures in this Code;
- (2) Promote the development of the hemp industry as permitted by law and allow producers to cultivate, handle, process, transport, and sell hemp for commercial purposes;
- (3) Regulate hemp as an agricultural commodity in the Territory of the Wichita Tribe, with appropriate monitoring and law enforcement procedures;
- (4) Enable affiliated Institutions of Higher Education to conduct research regarding the production of hemp in the Territory of the Wichita Tribe; and
- (5) Protect the political integrity, economic security, health and welfare, and public safety of the Wichita Tribe, its Tribal Members, and the local communities within its Territory.

### **SECTION 3: DEFINITIONS**

- (1) "Acceptable hemp THC level" means when the application of the measurement of uncertainty to the reported total THC concentration level on a dry weight basis produces a distribution or range that includes three-tenths of one percent (0.3%) or less.
- (2) "Act" means the Agricultural Marketing Act of 1946.
- (3) "Administrator" means the Administrator of the Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture.
- (4) "Agency" means any and all law enforcement agencies designated by the Wichita Tribe for protection of public safety within the Territory of the Wichita Tribe.

- (5) "AMS" means the Agricultural Marketing Service of the U.S. Department of Agriculture.
- (6) "Applicant" means a person, or a person who is authorized to sign for an entity, who applies to participate in the Wichita Tribal Hemp Program.
- (7) "BIA" means the Bureau of Indian Affairs.
- (8) "Cannabis" means any form of a plant in the genus *Cannabis* in which the THC concentration on a dry weight basis has not yet been determined.
- (9) "Commission" means the Tax Commission of the Wichita and Affiliated Tribes.
- (10) "Conviction" means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. A conviction is expunged when the conviction is removed from the individual's criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, or the conditions of a deferred sentence are successfully completed and the case is dismissed by the court with the status of a non-conviction, the individual is no longer considered to have a conviction for purposes of this part.
- (11) "Corrective action plan" means a plan established by the Commission for a Producer to correct a negligent violation or non-compliance with a hemp production license under this Code.
- (12) "Criminal history report" means the Federal Bureau of Investigation's Identity History Summary.
- (13) "CSA" means the Controlled Substances Act as codified in 21 U.S.C. § 801 *et seq.*
- (14) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or recklessly.
- (15) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THC-A) into THC.
- (16) "Decarboxylation" means the removal or elimination of a carboxyl group from a molecule or organic compound.
- (17) "DEA" means the United States Drug Enforcement Administration.
- (18) "Dry weight basis" means the ratio of the amount of moisture in a sample to the amount

of dry solid in a sample. The percentage of THC on a dry weight basis means the percentage of THC, by weight, in cannabis item after excluding moisture from the item.

- (19) "Entity" means a 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.
- (20) "Executive Committee" means the Executive Committee of the Wichita and Affiliated Tribes.
- (21) "FSA" means the Farm Service Agency, an agency of the United States Department of Agriculture.
- (22) "Gas chromatography" means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. Gas chromatography relies on heat for separating and analyzing compounds that can be vaporized without decomposition.
- (23) "Geospatial location" means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.
- (24) "Greenhouse" means a structure with walls and roof made chiefly of transparent material in which hemp is produced. "Greenhouse" also includes any other structures used for hydroponic or other indoor hemp production.
- (25) "Handle" means to harvest or store hemp prior to the delivery of such plants or plant parts for further processing. "Handle" also includes the disposal of cannabis plants that are not hemp for purposes of chemical analysis and disposal of such plants.
- (26) "Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (27) "High-performance liquid chromatography" means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. High-performance liquid chromatography relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid adsorbent material to separate and analyze compounds.
- (28) "Hydroponic" means the method of growing plants without soil by instead using mineral nutrient solutions in a water solvent.
- (29) "Information Sharing System" means the database mandated under the Act which allows USDA to share information collected under state, tribal, and USDA plans with federal, state, tribal, and local law enforcement.

- (30) "Institution of Higher Education" means the definition assigned to it by 20 U.S.C. § 1001.
- (31) "Key Participant" means a sole proprietor, a partner in a 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.
- (32) "License" means a license for the production of hemp in the Territory of the Wichita Tribe.
- (33) "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.
- (34) "Marijuana" means all cannabis that tests as having a concentration level of THC on a dry weight basis of higher than three-tenths of one percent (0.3%).
- (35) "Measurement of uncertainty" means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
- (36) "Negligence" means a failure to exercise the level of care that a reasonable and prudent person would exercise in complying with this Code.
- (37) "Phytocannabinoid" means cannabinoid chemical compounds found in the cannabis plant, two of which are THC and cannabidiol (CBD).
- (38) "Post-decarboxylation" means, a value determined after the process of decarboxylation that determines the total potential THC content derived from the sum of the THC and THC-A content and reported on a dry weight basis.
- (39) "Produce" means to grow hemp for market, or for cultivation for market, in the United States.
- (40) "Producer" means an entity or person that is licensed or authorized to produce hemp under this Code.
- (41) "Reverse Distributor" means a person who is registered with the DEA to dispose of marijuana under the CSA.
- (42) "Secretary" means the Secretary of Agriculture of the United States.
- (43) "Territory of the Wichita Tribe" means all land within the limits of the Wichita and Affiliated Tribes Reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, including rights of- way running through the reservation and any

lands title to which is either held in trust by the United States for the benefit of the Wichita and Affiliated Tribes or individual Tribal member or held by the Wichita and Affiliated Tribes or Tribal member subject to restriction by the United States against alienation and over which the Tribe exercises jurisdiction.

(44) "THC" means the chemical compound delta-9 tetrahydrocannabinol, as described in 7 C.F.R § 990 *et seq.*

(45) "USDA" means the United States Department of Agriculture.

All other terms in this Code not defined above shall have the same definitions as provided in 7 C.F.R § 990 *et seq.*

#### **SECTION 4: HEMP AUTHORIZED AS AN AGRICULTURAL CROP**

- (1) Hemp that has no more than three-tenths of one percent (0.3%) THC shall be considered an agricultural crop in the Territory of the Wichita Tribe. Upon meeting the requirements of this Code, a person may produce hemp within the Territory of the Wichita Tribe pursuant to the scope of a valid license issued by the Commission in accordance with the continuing responsibilities and reporting requirements of this Code.
- (2) If and to the extent that other forms of cannabis or products related thereto become authorized for production under federal law and the laws of the Wichita and Affiliated Tribes in the future, this Code shall be revised to govern the production of such plants and products within the Territory of the Wichita Tribe.

#### **SECTION 5: HEMP PRODUCTION LICENSE**

- (1) Any person or entity producing or intending to produce hemp must have a valid license from the Commission prior to producing hemp. A valid license means the license is unexpired, unsuspended, unrevoked, and contains current information as required by this Code.
- (2) A person or entity intending to produce hemp shall apply to the Commission and provide information and documentation as set forth in the licensing procedures. The Commission shall consult and coordinate with the Executive Committee during the development of the licensing procedures, and approval by the Executive Committee or its designee shall be required prior to issuing a hemp production license to any party.
- (3) Applicants shall submit a signed, complete, accurate, and legible application for a new license or license renewal within the timeline specified by the Commission for each license year.
- (4) Applications must include the following information:
  - (a) For each applicant who is an individual, the full name of the individual, principal business location address, telephone number, and (if available) email address;

- (b) For each applicant that is an entity, the full name of the entity, the principal business location address, employer identification number (EIN) of the business, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report;
- (c) A current Federal Bureau of Investigation Identity History Summary. If the applicant is an entity, a criminal history record report shall be provided for each key participant. The applicant shall ensure the criminal history record report accompanies the application. The criminal history record report must be dated within thirty (30) days prior to the application submission date. A license application will not be considered without all required criminal history reports;
- (d) A legal description or street address of the land on which the Producer will produce hemp, including to the extent practicable its geospatial location;
- (e) The amount of land acreage or greenhouse indoor square footage dedicated to the production of hemp; and
- (f) The application fee as designated by the Commission.

Applications missing required information shall be returned to the applicant as incomplete. If a license application is denied, the notification from the Commission will explain the cause for denial. The applicant may resubmit a completed application.

- (5) All licenses for hemp production shall be valid for one (1) year from the date of issuance, unless otherwise revoked at an earlier date, with an expiration date of December 31 of the license year. Hemp production licenses shall not automatically renew, and applications for renewal shall be subject to the same terms, information requirements, approval criteria, and fees as provided in this Code for initial applications.
- (6) A license modification is required if there is any change to the information submitted in the application including, but not limited to: sale of a business; the production, handling, or storage of hemp in a new location; or a change in the key participants producing under a license. It shall be the responsibility of the license holder to provide updated license information to the Commission within ten (10) business days of the occurrence of any change in license information, and failure to timely provide updated license information shall be grounds for license revocation.
- (7) Licenses may not be sold, assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered. Any sale or other transfer of a controlling interest in a licensed Producer must be reported in writing to the Commission within thirty (30) days of the date of the transfer, and the persons or entities obtaining the controlling interest must meet the licensing requirements for applicants as set forth in this Code.

- (8) Criminal history report
  - (a) All costs associated with the criminal history report are the responsibility of the applicant and are not covered or included in the application fees.
  - (b) The Producer is responsible for all individuals that will engage in the cultivation or handling of hemp on its behalf.
  - (c) The Producer must report any felony convictions of each employee for whom the entity is required to submit a criminal history record report relating to controlled substances under federal, state, or tribal law to the Commission within five (5) days of receiving notice of such conviction.
  
- (9) By submitting an application, the applicant acknowledges and agrees to the following terms and conditions:
  - (a) Any information provided to the Commission may be provided to law enforcement agencies without further notice to the applicant;
  - (b) The applicant or Producer shall allow and fully cooperate with any information requests, inspections, and sampling that the Commission or Executive Committee deem necessary;
  - (c) By submitting a completed license application, applicants consent to comply with the requirements of this Code and to all applicable laws, regulations, and the exclusive jurisdiction of the Wichita and Affiliated Tribes.
  
- (10) If the applicant has completed the application process to the satisfaction of the Commission, the Commission shall present the application to the Executive Committee or its designee for approval to issue the License.
  
- (11) All licenses for the production of hemp shall be given a license number and other identifiers as directed by the Commission.

## **SECTION 6: INFORMATION MAINTENANCE**

The Commission shall maintain relevant information regarding land and facilities where hemp is produced in the Territory of the Wichita Tribe, including: contact information described in Section 5; a legal description of the land on which the Producer will produce hemp, and to the extent practicable, its geospatial location; the status and number of the Producer's license or authorization; and test results of hemp; for a period of not less than five (5) years. Producers shall provide, and the Commission shall retain and report, all information as required under the applicable provisions of 7 C.F.R. §990 *et seq.*

## SECTION 7: INFORMATION SUBMISSION

- (1) Producers must report their hemp crop acreage to the FSA and shall provide, at a minimum, the following information:
  - (a) Legal description or street address and, to the extent practicable, geospatial location of the lot, greenhouse, building, or site where hemp will be produced. All locations where hemp is produced must be reported to FSA.
  - (b) Acreage dedicated to the production of hemp, or greenhouse indoor square footage dedicated to the production of hemp.
  - (c) Total acreage of hemp planted, harvested, and disposed.
  - (d) License identifier.

All such information must be submitted to the USDA in a format that is compatible with USDA's information sharing system.

### (2) Hemp Producer Report

The Commission shall submit to USDA, by the first of each month (or with the timing and frequency otherwise specified by the USDA), a report providing the contact information and the status of the license issued for each hemp Producer. The report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall at minimum contain the following information:

- (a) For each new Producer who is an individual, the full name of the individual, license identifier, business address, telephone number, and email address (if available);
- (b) For each new Producer who is an entity, the full name of the entity, the principal business location address, license identifier, EIN number, and the full name title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report;
- (c) For each Producer that was included in a previous report and whose reported information has changed, the report shall include the previously reported information and the new information;
- (d) Legal description or street address and, to the extent practicable, geospatial location for each land area or greenhouse where hemp will be produced. If an applicant operates in more than one location, the information shall be provided for all production sites;
- (e) The total acreage of hemp planted and harvested;



- (f) The status of each producer's license or authorization;
  - (g) The period covered by the report; and
  - (h) A description of any licensing changes during the current reporting cycle, if applicable.
- (3) Hemp Disposal Report
- (a) If a Producer has produced cannabis exceeding the acceptable hemp THC level, the cannabis shall be subject to disposal or remediation in accordance with the applicable regulations found in 7 C.F.R. §990.27. The Commission shall submit to USDA a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials by the first day of each month. The report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall contain the following information:
    - (i) The name and contact information (including address) for each Producer subject to disposal during the reporting period;
    - (ii) The Producer's license identifier;
    - (iii) The location information, including the lot number, location type, and geospatial location or other location description for the production are subject to disposal;
    - (iv) Laboratory test results report for the lot;
    - (v) Information on the agent handling the disposal, and if completed by the Agency, an attestation of the agents stating all of the marijuana was disposed and the method of disposal;
    - (vi) The disposal completion date; and
    - (vii) The total acreage of disposed plants and materials.
  - (b) Remediation of nonconforming plants shall be done in accordance with USDA Remediation and Disposal Guidelines. <https://www.ams.usda.gov/rules-regulations/hemp/rulemaking-documents>
- (4) Annual Report
- (a) The Commission shall submit an annual hemp production report to USDA. The report form shall contain the following information:

- (i) The total planted acreage;
- (ii) The total harvested acreage;
- (iii) The total acreage disposed; and
- (iv) Any other data required under 7 C.F.R. §990 *et seq.*

## **SECTION 8: SAMPLING PROCEDURE**

- (1) Within thirty (30) days prior to the anticipated harvest of cannabis plants, a Federal or Tribal law enforcement agency or other Federal or Tribal authorized and designated agent shall collect samples from the flower material from such cannabis plants for THC concentration level testing as described in Section 9 and in conformance with applicable requirements of 7 C.F.R. §990 *et seq.* Producers may not collect samples from their own growing facilities.
- (2) The designated agent shall be trained using USDA-approved training.
- (3) The Tribe shall maintain information regarding the training of designated sampling agents. Such information shall be made available to Producers upon request to the Commission.
- (4) Samples shall be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight inches in length from the "main stem" (that includes the leaves and flowers), "terminal bud" (that occurs at the end of a stem), or "central cola" (cut stem that could develop into a bud) of the flowering top of the plant.
- (5) The method used for sampling from the flower material of the cannabis must be sufficient at a confidence level of ninety-five percent (95%) that no more than one percent (1%) of the plants in the lot would exceed the acceptable hemp THC level. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the lot.
- (6) The sampling agency or designated person shall collect samples in accordance with the Wichita and Affiliated Tribes Hemp Sampling Procedures, which are included and incorporated herein. \.
- (7) During the scheduled sample collection, the Producer or an authorized representative of the Producer shall be present at the growing site.
- (8) Representatives of the sampling agency shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the Producer's license.
- (9) A Producer shall not harvest the cannabis crop prior to samples being taken.

## SECTION 9: THC TESTING

- (1) Analytical testing for purposes of detecting the concentration levels of THC in the flower material of the cannabis plant shall be in conformance with applicable provisions of 7 C.F.R. §990 *et seq.*, and at minimum shall meet the following standards:
  - (a) Laboratory quality assurance must ensure the validity and reliability of test results;
  - (b) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate and that the laboratory can successfully perform the testing;
  - (c) The demonstration of testing validity must ensure consistent, accurate analytical performance; and
  - (d) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part.
- (2) At a minimum, analytical testing of samples for THC concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary. The testing methodology must consider the potential conversion of THC-A in hemp into THC and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas or liquid chromatography with detection.
- (3) The total THC concentration level shall be determined and reported on a dry weight basis. Additionally, measurement of uncertainty must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement uncertainty.
- (4) The Producer is responsible for ensuring and paying the costs for samples to be received and prepared for testing by a qualified laboratory. Beginning January 1, 2022, all laboratories utilized for testing hemp produced pursuant to this Code must be registered with the DEA.
- (5) The laboratory shall follow USDA-compliant preparation and testing procedures for identifying Delta-9 Tetrahydrocannabinol Concentration in hemp. Analytical testing of samples to determine total delta-9 tetrahydrocannabinol THC should meet the following standards:
  - (a) Laboratory quality assurance protocols must ensure the validity and reliability of test results;
  - (b) Analytical method selection, validation, and verification protocols must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;
  - (c) Protocols for demonstrating testing validity must ensure consistent, accurate

analytical performance;

- (d) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part; and
- (e) Testing protocols must include an effective disposal procedure, in accordance with USDA guidelines, for non-compliant samples that do not meet the requirements of this part.
- (f) Measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.
- (g) Sample preparation of pre- or post-harvest sample shall require grinding of the sample to ensure homogeneity of plant material prior to testing.

At a minimum, analytical testing of samples for total delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary in writing. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC), and the test result must reflect the total available THC derived from the sum of the THC and THCA content. Current testing methodologies meeting these requirements include gas chromatography and liquid chromatography. Other methods may be approved if they meet the regulatory requirements.

- (6) Any test of a representative sample resulting in higher than legally-authorized THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this part. Lots tested and not certified by a qualified laboratory at or below the acceptable hemp THC level shall only be utilized or disposed of in accordance with Section 13.
- (7) Samples of hemp plant material from one lot or production site shall not be comingled with hemp plant material from other lots or sites.
- (8) Laboratories utilized for testing must have an effective disposal procedure for cannabis in accordance with applicable federal regulations.
- (9) For each sample tested pursuant to this Section, the laboratory shall provide a laboratory test result report containing the following information:
  - (a) Producer's license number;
  - (b) Name of Producer;
  - (c) Business address of Producer;
  - (d) Lot identification information for the sample;

- (e) Name and DEA registration number of laboratory (a DEA registration number is required beginning January 1, 2022);
  - (f) Date of test and report;
  - (g) Identification of a retest; and
  - (h) Test result.
- (10) An official THC compliance test result must be provided to the USDA by the lab for each lot.
  - (11) Any hemp program licensee may request that the laboratory retest samples if it is believed the original THC concentration level test results were in error. The licensee requesting the retest of the second sample will pay the cost of the test. The retest result shall be issued to the licensee requesting the retest and a copy shall be provided to the Commission and USDA or its agent.
  - (12) The Producer shall harvest the crop not more than thirty (30) days following the date of sample collection.
  - (13) If the producer fails to complete harvest within thirty (30) days of sample collection, a secondary pre-harvested sample of the lot shall be required to be submitted for testing.
  - (14) Harvested lots of hemp plants shall not be commingled with other harvested lots or other material until they have been tested and found compliant with the requirements of this Code and the Commission gives written permission.
  - (15) Lots that do not exceed the acceptable hemp THC level may enter the stream of commerce.

## **SECTION 10: NOTIFICATION REQUIREMENTS**

- (1) The Commission shall promptly notify the USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp in this Code, and attach the records demonstrating the appropriate use or disposal of all of those plants and materials in the lot from which the representative samples were taken.
- (2) Each Producer shall file with the Commission documentation showing that the seeds planted are of a type and variety certified to have no more than three-tenths of one percent (0.3%) THC. Acceptable seed certifications are those issued by the Association of Official Seed Certifying Agencies (AOSCA), the Organization for Economic Cooperation and Development (OECD), or other agencies approved by the Commission in conformance with 7 C.F.R. §990 *et seq.*

- (3) Each Producer shall notify the Commission of the sale or distribution of any hemp grown by the Producer, including the name and address of the person receiving the hemp.

## **SECTION 11: ENFORCEMENT PROCEDURES - VIOLATIONS**

A violation of this Code shall be subject to enforcement solely in accordance with the terms of this Section.

- (1) Negligent violation. Negligent violations shall include, but not be limited to:
  - (a) Failure to provide a full and accurate legal description or street address of land on which the Producer produces hemp;
  - (b) Failure to obtain a license or other required authorization from the Commission; or
  - (c) Production of cannabis with a THC concentration exceeding the acceptable hemp THC level. Hemp Producers do not commit a negligent violation under this subsection if they make reasonable efforts to grow hemp and the cannabis does not have a THC concentration of more than one percent (1.0%) on a dry weight basis.
- (2) Corrective action plan. A Producer described in Subsection (1) shall comply with a plan established by the Commission to correct the negligent violation, including:
  - (a) A reasonable date by which the Producer shall correct the negligent violation; and
  - (b) A requirement that the Producer shall quarterly report to the Commission on the compliance of the Producer with the corrective action plan for a period of not less than the next two (2) calendar years from the date of the negligent violation.

The Commission shall conduct inspections to determine if the corrective action plan has been implemented.

- (3) Result of a negligent violation.
  - (1) A Producer that negligently violates this Code under subsection shall not as a result of that violation be subject to any criminal enforcement action.
  - (2) A Producer shall not receive more than one negligent violation per growing season.
- (4) Repeat violations.
  - (a) A Producer that negligently violates this Code under subsection (1) three (3) times in a five (5)-year period shall be ineligible to produce hemp for a period of five (5) years beginning on the date of the third violation.

- (b) A Producer who violates clause (a) shall have all plants and plants products within the Territory of the Wichita and Affiliated Tribes seized by the Commission and disposed of in accordance with Section 13.
- (5) Culpable violations.
  - (a) If the Commission determines that a Producer has violated this Code with a culpable mental state greater than negligence, the Commission shall immediately report the producer to:
    - (i) The Special Agent in Charge for the Bureau of Indian Affairs Office of Justice Services for District II; and
    - (ii) The U.S. Attorney General.
  - (b) Subsections (1)-(4) of this Section shall not apply to the violation.
- (6) Felony.
  - (a) In general. Except as provided in clause (b), any person convicted of a felony relating to a controlled substance under Federal law before, on, or after the date of December 20, 2018, shall be ineligible, during the ten (10) year period following the date of the conviction, to participate in hemp production under this Code.
  - (b) Entities. If any key participant of an entity has been convicted of a felony related to a controlled substance, then the entity shall be ineligible during the ten (10) year period following the date of the conviction to participate in hemp production under this Code, unless the entity terminates the employment of and/or any other business connection with the convicted key participant within thirty (30) days after the conviction.
- (7) False statement. Any person who materially falsifies any information contained in an application to participate in hemp production shall be ineligible to participate under this Code.
- (8) Any person who is found to have violated subsections (5)-(7) above shall have their plants and plants products seized by the Commission and disposed of in accordance with Section 13.

## **SECTION 12: INSPECTIONS**

- (1) The Commission shall have authority to conduct random inspections of Producers and all lots to verify compliance with all requirements of the license issued.

- (2) The Commission shall annually inspect a random sample of hemp from all Producers to verify that hemp is not produced in violation of this Code.
- (3) Inspections may be conducted by the Commission without advance notice to Producers.
- (4) Inspections may include sampling by Commission inspectors for testing to determine hemp THC levels or any other Commission-defined purpose under this Code.
- (5) If a violation of this Code has been found as a result of an inspection, the violation shall be resolved by the procedures described in Section 11.

### **SECTION 13: PROCEDURE FOR DISPOSAL OF NONCOMPLIANT CANNABIS**

#### Disposal Requirements:

- (1) Cannabis that tests higher than three-tenths of one percent (0.3%) THC concentration shall be disposed of in compliance with applicable disposal regulations found in 7 CFR § 990 *et seq.*
- (2) All cannabis cultivated at the same lot and that tests higher than three-tenths of one percent (0.3%) THC shall be promptly disposed of according to the following disposition:
  - (a) The Producer shall, under the supervision of the Commission, collect all plants from the lot and surrender them to the Commission;
  - (b) The Commission shall then either:
    - (i) Immediately contact and, as soon as practicable, deliver to or provide for the pick-up of the plants by a reverse distributor for disposal; or
    - (ii) Dispose of the plants on-site in such a way as to render it to a non-retrievable state in order to prevent diversion of any such substance to illicit purposes and to protect the public health and safety, in accordance with the procedures authorized under 7 CFR §990 *et seq.* The disposal shall be observed and documented by the Commission in accordance with 7 CFR §990.70.
- (3) The Commission shall collect and remit to the United States Department of Agriculture all of the information required in the provisions of 7 CFR §990 *et seq.* applicable to disposal activities.
- (4) The Producer shall pay all costs for disposal.



## **SECTION 14: DISPOSITION OF FEES**

The Commission shall provide a quarterly (and whenever directed by the Executive Committee) report to the Executive Committee of the Wichita and Affiliated Tribes on all fees assessed and received pursuant to this Code. An appropriate portion of the annual fee receipts shall be utilized for funding of administration and enforcement of this Code.

## **SECTION 15: LAND USE RESTRICTIONS AND SITE MODIFICATION**

- (1) A Producer shall not produce hemp on any site not listed in the license application.
- (2) A Producer shall not produce hemp in any structure that is used for residential purposes.

## **SECTION 16: TRANSPORTATION REQUIREMENTS**

A Producer or other person responsible for the transportation of hemp must ensure the following documentation accompanies the hemp at all times during transport:

- (1) A copy of the Producer's license that corresponds to the lot from which the hemp originated;
- (2) A copy of the pre-harvest test results that corresponds to the lot in transit; and
- (3) Any other documentation that may be required by the Commission.

## **SECTION 17: EFFECTS ON OTHER LAWS**

Agricultural leases authorized under the American Indian Agricultural Resource Management Act of 1993 (25 USC § 3701 *et seq.*) and BIA agricultural lease regulations (25 CFR Part 162) for the production of hemp shall include provisions to implement and enforce this Code and shall not include provisions which are in conflict with this Code.

## **SECTION 18: COMPLIANCE WITH FEDERAL LAW**

Nothing in this Code authorizes any person to violate any Federal or Tribal law, ordinance, or regulation. This Code shall be interpreted and applied in conformance with applicable provisions of 7 C.F.R. §90 *et seq.*, and all hemp production activities shall be conducted in compliance with this Code and all applicable laws, ordinances, and regulations.

## WICHITA AND AFFILIATED TRIBES HEMP SAMPLING PROCEDURES

### **I. Introduction and Purpose**

In accordance with Tribal and federal regulations, the Wichita and Affiliated Tribes must sample all hemp fields and/or varieties, individually known as a “lot”, prior to harvest. These procedures are for collecting samples that will be analyzed for tetrahydrocannabinol (THC) according to Tribal and federal regulations to determine whether the specimens are considered industrial hemp or marijuana. The sample measurements are intended to be representative of the THC concentration of a hemp crop lot.

### **II. Scope**

Samples collected under these procedures are acceptable for submission to a Tribally-approved DEA-registered laboratory for determination of THC concentration in hemp. Because the THC content of hemp generally peaks as the plant ripens, the timing of sampling is important to accurately measure the true THC concentration of the lot and ensure compliance with the Tribal Hemp Production Code.

### **III. Equipment and Supplies**

1. Garden pruners/shears
2. Rubbing alcohol disposable wipes
3. Paper sample bags
  - i. The size of the bag will depend upon the number of clippings collected per lot.
  - ii. Use bags made from material known to be free from THC.
4. Security tape
5. Permanent markers and ink pens
6. Notice of Inspection
7. Sample collection forms
8. Copy of maps showing field(s) to be sampled
9. Copy of licensee planting report
10. GPS Unit of lot being sampled
11. Nitrile disposable gloves
12. Bucket to carry samples
13. Plastic container with locking lid for transport

### **IV. Procedure**

#### **A. Grower Responsibilities**

1. The licensee or designated responsible party shall accompany the inspector throughout the sampling process.
2. The inspector shall be provided with complete and unrestricted access to all hemp plants, whether harvested or not, and all land, buildings or other structures used for the cultivation, handling and storage of hemp plants or plant parts.
3. If the crop is confirmed to be eligible for harvest, the grower shall harvest the crop not more than 15 days following the date of sample collection by the inspector.
4. Harvested materials shall not be comingled, removed from the grower’s property, or extracted until released by the Tribe and upon receipt of satisfactory laboratory certificate of analysis.

#### **B. Verification of Field to be Sampled**

1. The inspector should verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to the Tribe.

2. The inspector should estimate average height, appearance, approximate density, condition of the plants and degree of maturity of the flowering material, meaning inflorescences (flowers/buds).
3. The inspector should visually establish the homogeneity of the stand to establish that the growing area is of like variety.

**C. Determining the Number of Subsamples to Collect for the Composite Sample**

1. The size of the growing area shall be considered for purposes of determining the number of individual plants to select for sampling. Samples from separate lots (approved location ID) and/or varieties must not be comingled, but must be kept separate.
2. To determine the number of plants to sample for lots less than 10 acres, including greenhouses and indoor growing structures, use Table 1 (included in these procedures).
3. To determine the number of plants to sample for lots greater than 10 acres, including greenhouses and indoor growing structures, use Table 2 (included in these procedures).

**D. Sample Identification and Collection of the Hemp Plant Material**

1. Identify all samples with the following minimum information:
  - i. The sample identification shall include the following information to be written on the sample bag: 1) inspector contact information; 2) name and contact information of the licensee; 3) industrial hemp license number; 4) date of sample collection, and 5) Lot ID (approved location ID) and any further information as provided by the USDA Farm Service Agency.
2. Ensure the cutting shears are free from any potential contaminating material prior to entering area to be sampled by wiping them with disposable alcohol wipes.
3. 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.
4. While walking through the growing area, the inspector shall cut at least “n” flowering material, meaning inflorescences (the flower or bud of the plant) at random but convenient distances. Avoid collecting too many specimens from the borders of the field/greenhouse. Avoid collecting specimens from dead, diseased, pest infested, or injured plants.
5. Make the cut just underneath the flowering material, meaning inflorescence (the flower or bud of a plant), located at the top one-third (1/3) of the plant. (**See Figure 1.**) The sample size must be of adequate volume to accommodate laboratory tests. (Approximately 2 ounces (56g) of flowering material).
6. Place the cuttings in the paper sample bag. Ensure that each bag has the minimum number of cuttings, “n”, as identified in **Table 1** and **Table 2**.
7. Seal each bag by folding over the top twice. Apply official sampling tape across the fold. The tape should be initialed by the inspector and the licensee or designated responsible party and the date of collection written across the tape.

**E. Completion of Sample Submission Form and Payment Collection**

1. Complete Sample Submission and Chain of Custody forms.
2. Transport or ship the sample to a Commission-approved laboratory for analysis. Every effort should be made to transport or ship the sample to the lab the same day. Keep the sample dry and cool to avoid degradation of the plant material. Inspector must maintain custody of the sample at all times.

**FIGURE 1: HEMP CUTTING FOR INSPECTION SAMPLE COLLECTION**



The plant to be sampled is cut just underneath the flowering material located at the top one-third (1/3) of the plant. This is the plant material above the black line in the illustration. The flowering material cut from the plant is then collected and processed for THC testing in accordance with the sampling procedures. The sample size must be of adequate volume to accommodate laboratory tests, which is approximately 2 ounces (56g) of flowering material.

**TABLE 1. (Sample size “n” for lots of 10 acres or less in size)**

Number of Acres	Sample size “n”	Number of Acres	Sample size “n”
Less than 1	5	6	6
1	5	7	7
2	5	8	8
3	5	9	9
4	5	10	10
5	5		

**TABLE 2. (Sample size “n” for lots of 11 acres to 200 acres)**

Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’	Number of Acres	Sample Size ‘n’
11	11	44	39	85-86	67	137-138	95
12	12	45-46	40	87	68	139-140	96
13	13	47	41	88-89	69	141-143	97
14	14	48	42	90-91	70	144-145	98
15	15	49-50	43	92	71	146-147	99
16	16	51	44	93-94	72	148-149	100
17	17	52	45	95-96	73	150-152	101
18-19	18	53-54	46	97-98	74	153-154	102
20	19	55	47	99	75	155-156	103
21	20	56	48	100-101	76	157-158	104
22	21	57-58	49	102-103	77	159-161	105
23	22	59	50	104-105	78	162-163	106
24	23	60-61	51	106-107	79	164-166	107
25-26	24	62	52	108	80	167-168	108
27	25	63-64	53	109-110	81	169-170	109
28	26	65	54	111-112	82	171-174	110
29	27	66-67	55	113-114	83	175-177	111
30	28	68	56	115-116	84	178-179	112
31-32	29	69-70	57	117-118	85	180-182	113
33	30	71	58	119-120	86	183-184	114
34	31	72-73	59	121-122	87	185-187	115
35	32	74	60	123-124	88	188-190	116
36	33	75-76	61	125-126	89	191-192	117
37-38	34	77	62	127-128	90	193-195	118
39	35	78-79	63	129-130	91	196-198	119
40	36	80-81	64	131-132	92	199-200	120
41-42	37	82	65	133-134	93		
43	38	83-81	66	135-136	94		

## HEMP PRODUCTION LICENSE APPLICATION

This Hemp Production License Application and appropriate fees must be received by **December 31st** to be considered for the next year's growing season.

<b>APPLICANT INFORMATION</b>	Have you been licensed previously? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the license number:	
Last Name:	First Name:	Middle Name:
Address:		
City:	State:	Zip:
Phone:	Cell:	Email:
If the Applicant is an entity (attach applicant information and FBI Identity History Summaries for all key participants):		
Entity Name:		
Principal Business Address:		
City:	State:	Zip:
Entity EIN Number:		
<b>FIELD INFORMATION:</b> Please provide a geospatial location, legal description, and/or street address for each lot or greenhouse where hemp will be produced.		
<b>Lot or Greenhouse 1</b>	<b>Lot or Greenhouse 2</b>	
Township: _____ Range: _____	Township: _____ Range: _____	
Section: _____ ¼ Section: _____	Section: _____ ¼ Section: _____	
Field Center Lat/Long: _____	Field Center Lat/Long: _____	
Street Address: _____	Street Address: _____	
City: _____ State: _____ Zip: _____	City: _____ State: _____ Zip: _____	
GPS Coordinates: _____	GPS Coordinates: _____	
Landowner or Agent Signature _____	Landowner or Agent Signature _____	
Landowner or Agent Name (Print) _____	Landowner or Agent Name (Print) _____	
Number of Lots and/or Greenhouses: _____	Total Acres and/or Square Footage: _____	
<b>INTENDED USE FOR CROP(S)</b> Check all that apply		
<input type="checkbox"/> Fiber <input type="checkbox"/> Construction Materials <input type="checkbox"/> Cosmetics/Beauty/Health <input type="checkbox"/> Seed Oil <input type="checkbox"/> Food/Beverage <input type="checkbox"/> Variety Trials/Research <input type="checkbox"/> Animal Bedding <input type="checkbox"/> Biofuel <input type="checkbox"/> Cannabinoid Oils <input type="checkbox"/> Seed Stock <input type="checkbox"/> Phyto Remediation <input type="checkbox"/> Textiles <input type="checkbox"/> Other - Please explain _____		
What is/are your primary goal(s) for this project? _____		
<b>SEED VARIETIES AND SOURCES</b> Hemp varieties must be approved by the Council and purchased from licensed dealers.		
Variety	Licensed Seed Dealer	Pounds
<b>LICENSE AND FEES</b>		
<b>HEMP PRODUCTION LICENSE</b>	<input type="checkbox"/> \$ _____.00	

<b>ATTESTATION STATEMENT</b>		
<p>I hereby certify that the information contained in and submitted with this application is true and correct. Persons who violate federal or tribal laws regarding hemp production may be subject to federal or tribal prosecution. I further certify that I do not have any disqualifying felony drug convictions. I agree to comply with the Wichita and Affiliated Tribes Hemp Production Code, including consent to entrance of above property by Tribal agencies for hemp inspection and sampling, and I agree to comply with all laws of the Wichita and Affiliated Tribes and submit to the jurisdiction of the Tribal Court designated by the Wichita and Affiliated Tribes.</p>		
Name:	Title:	
Signature: _____	Date:	
Notary:		
<b>COMMISSION USE ONLY</b>		
Date Received:	Amount Received;	License#:

**INSTRUCTIONS**

**Applicant Information:** Please print clearly or type all required information.

**Criminal History Report:** Producers must have no prior felony drug charge convictions in the past ten (10) years. You must provide all necessary FBI Identity History Summaries with this application. Attach additional pages for all FBI Identity History Summaries. FBI Identity History Summaries must be dated within sixty (60) days prior to the application submission date.

**Lot and/or Greenhouse Information;** Please provide the exact location of each lot and/or greenhouse where the hemp will be produced. Attach additional pages if you have more than two lots and/or greenhouses. The legal landowner of the property or his/her agent must sign the application to receive a license. Rented or leased lots and/or greenhouses must have the actual landowner signature for each field.

**Seed Varieties and Sources:** The Applicant must obtain only approved seeds, either certified to the Association of Official Seed Certifying Agencies (AOSCA) or the Organization for Economic Cooperation and Development (OECD) standard. Attach additional pages if more than three (3) varieties or sources are being produced.

**Intended Use for Crops;** Please check all boxes that describe the planned uses for your hemp crop.

**License Fees:** Please enclose payment for \$ \_\_\_\_\_.00 to the Wichita and Affiliated Tribes.

**Contact Information and Signature:** The Applicant must completely fill out, sign, and notarize the hemp production license application.

**Mail To or Return to:** \_\_\_\_\_.

For additional assistance, please contact 405. \_\_\_\_\_. \_\_\_\_.

**TRIBAL HEMP PROGRAM CERTIFICATION**

Pursuant to Section 297B (a)(2)(A)(vii) of the Agriculture Improvement Act of 2018 and 7 CFR §990.3(a)(9), I certify in my official capacity as President that the Wichita and Affiliated Tribes have the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B (a)(2) of the Act and 7 CFR §§990.3 (a)(1)-(9) and any further requirements for administration and enforcement of the Wichita and Affiliated Tribes Hemp Production Code.

Dated this \_\_\_ day of \_\_\_\_\_, 2021.

**WICHITA AND AFFILIATED TRIBES**

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Terri Parton, President