



**THE CONFEDERATED TRIBES AND BANDS OF THE
YAKAMA NATION**

HEMP REGULATORY CODE

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PART I. GENERAL PROVISIONS

Regulation 1.10.010 Short Title

This document may be cited as the “Hemp Regulatory Code.”

Regulation 1.10.020 Findings and Purpose

The Yakama Nation has decided to open lands within its jurisdiction to the cultivation, processing, and distribution of Hemp.

Regulation 1.10.030 Scope and Authority

- A. The Yakama Nation shall have rulemaking, regulatory, and taxing authority over the commerce of, including but not limited to, the growth, cultivation, processing, marketing, production, and sale, of Hemp within its Territorial Boundaries by any Persons.
- B. The regulations and penalties imposed by this Hemp Regulatory Code (the “Code”) extend to any Person within the Yakama Nation’s Jurisdiction, whether Licensed or not.
- C. Nothing in this Hemp Regulatory Code shall be construed to limit the jurisdiction of the Yakama Nation, the Tribal Court, or the Tribal Police.

Regulation 1.10.040 Industrial Hemp Authorized as an Agricultural Crop

Hemp (also known as “Industrial Hemp”) that has no more than 0.3 percent Tetrahydrocannabinol (“THC”) is considered an agricultural crop within the Territories of the Yakama Nation. The Yakama Nation authorizes the possession, cultivation, transportation, production and use of Industrial Hemp within the Territories of the Yakama Nation when those activities are licensed by the Yakama Nation and conducted in full compliance with the requirements of this Code and applicable law.

Regulation 1.10.050 Jurisdiction

- A. Territories of the Yakama Nation. For the purposes of the Code, Territories of the Yakama Nation includes all lands within the exterior boundaries of the Yakama Reservation; all Yakama Nation allotments, located both on and off the Yakama Reservation that still possess an Indian title; and, any lands, both on and off the Yakama Reservation, title to which is either held in trust by the United States for the benefit of the Yakama Nation, or its members, which remain subject to restriction against alienation and over which the Yakama Nation exercises jurisdiction.
- B. Consensual relations among non-Indians, the Yakama Nation, and enrolled members of the Yakama Nation or any other federally recognized tribe. Any Person who uses land anywhere within the Territories of the Yakama Nation and any

Person who enters into agreements or understandings with the Yakama Nation or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the Yakama Nation or its members and shall be subject to the regulatory and adjudicatory jurisdiction of the Yakama Nation.

Regulation 1.10.060 Sovereign Immunity

Nothing in this Hemp Regulatory Code shall be construed to waive, alter, or otherwise diminish the Yakama Nation's Sovereign Immunity, whether expressed or implied, by virtue of this Code for any and all administrative or legal action which may arise directly or indirectly from the same; nor does the Yakama Nation waive, alter, or otherwise diminish its rights, privileges, remedies or services guaranteed by the Treaty of 1855.

PART II. OVERSIGHT, AUTHORITY, AND THE AGRICULTURE OFFICE

Regulation 1.20.010 Roads, Irrigation, and Land Committee

The Roads, Irrigation, and Land Committee (the "RIL Committee") shall serve as the oversight committee for the purposes of this Code.

Regulation 1.20.020 Agriculture Office Duties and Authority

The RIL Committee shall establish such terms and conditions of the Agriculture Office as it sees fit in accordance with Yakama Nation Law.

With approval of the RIL Committee, the Agriculture Office shall have the complete and full authority necessary to fulfill its responsibilities under this Code, including but not limited to licensing, inspection, sampling, testing, regulation, fee scheduling, taxation, and enforcement. The Agriculture Office shall also have full authority to designate new positions and establish subordinate departments as necessary and with approval of the RIL Committee.

PART III. HEMP LICENSING

Regulation 1.30.010 General

Any Person or Entity that would like to grow, Cultivate, process, manufacture, produce, extract, market, distribute, or sell Hemp (including seeds and propagules) within, or emanating from, the Territories of the Yakama Nation shall complete a license application, annually, prior to any Hemp Activity. The Agriculture Office may choose to tailor licenses differently for Hemp Producers, Hemp Processors, and Hemp Sellers.

Regulation 1.30.020 License Applications

The Applicant shall submit to the Agricultural Office a signed, complete, accurate and legible application form provided by the Agriculture Office at least thirty (30) days prior to planting Hemp. The application shall include the following information:

CONTACT INFORMATION. Full name, residential address, telephone number, and email address;

BUSINESS ENTITY. If the Applicant represents a business Entity: the full legal entity name of the business; the business location address on the Yakama Nation's Reservation; full name, title, and email addresses of the Key Participants; Employer Identification Number ("EIN") of the business Entity; the full name of the Applicant who will have signing authority on behalf of the Entity, title, and an email address of the Person with signing authority;

BACKGROUND CHECK. A completed criminal background check report for the Applicant on a form determined by the Agriculture Office demonstrating that the Applicant does not have any disqualifying felony drug convictions pursuant to Section 1.30.080 of this Code;

- i. All Applicants are required to provide any and all information necessary to the Agriculture Office for the purpose of obtaining a current criminal history check.
- ii. Applicants must also submit a notarized attestation that the Applicant does not have any felony conviction relating to a Controlled Substance under state, tribal, or federal law for the previous ten (10) years.
- iii. The Agriculture Office shall review the criminal history report for each Applicant to determine whether the felony ban applies.
- iv. When an Applicant is a business Entity, the Applicant shall submit, and the Agriculture Office shall review, a criminal history report for each Key Participant in the business.
- v. The Agriculture Office may determine the appropriate method for obtaining the criminal history report for Applicants under this Code.
- vi. Any Applicant or Licensee must report any felony conviction relating to Controlled Substances under state, tribal, and federal law to the Agriculture Office within five (5) business days of receiving notice of such conviction;

FEE. The Annual Application Fee will be set by the Agriculture Office, with approval of the RIL Committee.

ACKNOWLEDGMENT. An acknowledgment of the licensing terms and conditions;

GROW SITE REGISTRATION APPLICATION. The Applicant shall submit a Grow Site Registration Application pursuant to the requirements outlined in Section 1.30.030.

OTHER. Any other information or disclosure required to be submitted by the Agriculture Office or Federal regulation.

Regulation 1.30.030

Grow Site Registration Application

- A. As a component of the Hemp Producer license application, each Applicant shall submit a Grow Site Registration Application on a form provided by the Agriculture Office for each proposed Registered Land Area in which the Applicant intends to Cultivate Hemp. Information submitted to the Agriculture Office must include, at a minimum:

The street address and legal description of each field, greenhouse, building, or site where Hemp will be Cultivated;

If Hemp is Cultivated or is intended to be Cultivated in a field;

- i. The GPS coordinates for each Grow Site, provided in decimal of degrees and taken at the approximate center of the Grow Site;
- ii. The number of square feet or acres of each Grow Site;
- iii. A map of the area showing clear boundaries of the Grow Site;

If Hemp is Cultivated or is intended to be Cultivated in a greenhouse or other building;

- i. The GPS coordinates provided in decimal of degrees and taken at the approximate entrance of the greenhouse or other building composing the Grow Site;
- ii. The approximate dimension or square feet of the greenhouse or other building composing the Grow Site; and
- iii. A map of the area showing clear boundaries of the Grow Site.

- B. The Agriculture Office may approve an Applicant to Cultivate an acreage or square footage that is equal to, greater than, or less than the acreage or square footage stated in the Grow Site Registration Application; and

- C. Applicants must have the legal right to produce Hemp on the Registered Land Area and the legal authority to grant the Agriculture Office access for inspection and sampling.

Regulation 1.30.040

Terms and Conditions Acknowledgment

By submitting an application, the Applicant acknowledges and agrees to the following minimum terms and conditions:

Any information provided to the Agriculture Office may be provided to law enforcement agencies without further notice to the Applicant;

The Applicant or Licensee shall allow and fully cooperate with any inspection and sampling that the Agriculture Office deems necessary;

The Applicant or Licensee shall pay for any inspection and laboratory analysis costs that the Agriculture Office deems necessary within thirty (30) days of the date of the invoice, provided that the Licensee shall not be required to pay for more than one (1) Agriculture Office inspection and associated laboratory analysis cost per year;

The Applicant or Licensee shall submit all required Reports by the applicable due date specified by the Agriculture Office;

Applicants shall submit and/or pay criminal background check fees directly to the Yakama Nation Tribal Police or other law enforcement agency designated by the Yakama Nation to obtain a criminal history background check report; and

The Applicant or Licensee must report any felony convictions relating to Controlled Substances under state or federal law to the Agriculture Office within five (5) business days of receiving notice of such conviction.

Regulation 1.30.050 Tribal Members and Tribal Corporations

The Agriculture Office is authorized to assess special, discounted, or reduced fees or to waive fees under this Code if the Applicant is an enrolled member of the Yakama Nation, or, a Yakama Nation member-owned business organized under Yakama law.

Regulation 1.30.060 License Term

All licenses issued shall be valid for one (1) year from date of issuance, unless otherwise revoked at an earlier date pursuant to Section 1.30.090 below or other Agriculture Office issued rule. License numbers issued by the Agriculture Office will be in the format prescribed by the USDA.

Regulation 1.30.070 Annual Renewal

Current and valid licenses may be renewed annually or as otherwise determined by the Agriculture Office by submitting a renewal application on a form provided by the Agriculture Office no later than thirty (30) days prior to the date of the license expiration.

Regulation 1.30.080 Ineligible for License

- A. RESTRICTIONS. Unless otherwise provided under this Code, the following individuals shall be ineligible for a License under this Code:
 - i. Any Person under 18;
 - ii. Any Person convicted of a felony relating to a Controlled Substance under Yakama, state or Federal law shall be ineligible, during the ten (10) year period following the date of such felony conviction;

- iii. Any Person who materially falsifies any information contained in their Hemp license application;
 - vi. Any Person that negligently violates the provisions of this Code, provisions of another state or tribal hemp plan, or federal law and/or regulations relating to a controlled substance three (3) times in a five (5) year period shall be ineligible to participate in the Yakama Nation Hemp Program for a period of five (5) years beginning on the date of the third violation.
- B. ENTITIES/EMPLOYEEES. Licensees cannot have any employee or partner, including Key Participants, within their Hemp Production who have been convicted of a felony, under Yakama, state, or federal law, relating to a Controlled Substance within the past ten (10) years from the date of the License application.

Regulation 1.30.090

Revocation of License

The License of a Hemp Producer shall be immediately revoked in the event that a Licensee (Hemp Producer):

- A. Pleads guilty to, or is convicted of, any felony related to a Controlled Substance;
- B. Makes any materially false statement with regard to the provisions of this Code to the Agriculture Office;
- C. Commits any act of ineligibility within this Code; or
- D. Is found to be growing Cannabis exceeding the Acceptable Hemp THC Level with a culpable mental state greater than negligence.

Regulation 1.30.100

Fees

- A. Each Applicant shall pay the application fee set by the Agriculture Office when submitting a Hemp Producer license application.
- B. The Agriculture Office may set and collect additional fees, including license, renewal, and testing fees, in amounts that the RIL Committee determines will be sufficient to cover the costs of administering and enforcing the Hemp Program.
- C. Application fees shall include the cost of a criminal background check report.

Regulation 1.30.110

Compliance and Enforcement

- A. Licenses cannot be assigned or transferred to another Person.
- B. Hemp Producers shall provide the Agriculture Office's inspector and/or Sampling Agent complete and unrestricted access to all plants, parts, and seeds within a Registered Land Area, whether growing or harvested, and all land, buildings, and other structures used for the Cultivation of Hemp, and all documents and records pertaining to the Licensee's Hemp business.

- C. The transfer or sale of Hemp that exceeds the Acceptable Hemp THC Level constitutes a criminal violation of the Revised Yakama Code.

PART IV. REGISTERED LAND AREA CONTROLS

Regulation 1.40.010 Land Use Restrictions and Site Modification

- A. A Licensee shall not Cultivate Hemp on any site not listed as a valid and registered Agriculture Office approved Grow Site.
- B. Any Licensee that wishes to alter its Registered Land Area shall, before altering the Registered Land Area, submit to the Agriculture Office an updated legal description, GPS location, and map specifying the proposed alterations on a form issued by the Agriculture Office.
- C. No modifications to the Registered Land Area may be made without prior written approval from the Agriculture Office.
- D. No Registered Land Area may be included in more than one (1) Registered Land Area at the same time.

Regulation 1.40.020 Location; Restrictions

- A. Licensees shall ensure Harvest Lots within Hemp Grow Sites are completely segregated from any other crops.
- B. A Licensee shall not allow unsupervised access to Hemp Grow Sites or Hemp Product manufacturing facilities.
- C. A Licensee cannot employ any person, including Key Participants, within their Hemp business, convicted of a felony related to a Controlled Substance under tribal, state or federal law, or who would otherwise be ineligible from participating in the Yakama Nation's Hemp Program in accordance with this Code.

PART V. TRANSPORTATION

Regulation 1.50.010 Transportation

- A. The Licensee or other Person responsible for the transportation of a Hemp Crop must ensure that the following documentation accompanies the Hemp at all times during transport:
 - i. A copy of the valid Yakama Nation issued Hemp Producer license that corresponds to the Registered Land Area from which the Hemp originated;
 - ii. A copy of the pre-harvest test results that correspond to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp;

- iii. Destination Information; and
 - iv. Any other documentation that may be required by the Agriculture Office or the USDA.
- B. The 2018 Farm Bill explicitly prohibits state and tribal governments from interfering with the interstate transportation of Hemp. The Yakama Nation shall recognize other state and tribal licenses and testing certifications for Hemp being transported through the Yakama Nation Reservation. Any Hemp Producer or Hemp Seller who possesses Hemp which will stay within the Territories of the Yakama Nation must apply for a Yakama Nation Hemp license.

PART VI. RECORDS AND REPORTS

Regulation 1.60.010

Agriculture Office Reports

- A. The Agriculture Office may at its discretion require annual harvest, contact information, and disposal Reports of Licensees, which may include information on: seed variety; field location; legal description of the land on which the Licensee will grow, produce, or handle Hemp (including, to the extent practicable, geospatial location) agricultural techniques; production and sales; end use of product; contact information including full name, telephone number, license identifier, business address or principal business location address, federal employer identification number (to the extent applicable), title, and email address (if available) of Licensee or each Key Participant of a Licensee; disposal records of any non-conforming plants or plant material disposed of in accordance with Section 1.70.080 below, including the name and address of the Licensee, Licensee license number, location information for the lot subject to disposal, information on the disposal agent, date that such disposal was completed, and the total acreage disposed; annual information including total acreage of Hemp planted, total harvested acreage, and, if applicable, total acreage disposed; and any other Report information deemed necessary by the Agriculture Office to which the Licensee has consented in the license application.
- B. To the extent required, the Agriculture Office will report and share any such information to USDA's Agricultural Marketing Service, pursuant to 7 C.F.R. § 990.3(a), in order to support the information sharing requirements in 7 U.S.C. § 1639q(d).

Regulation 1.60.020

Retention

The Agriculture Office shall maintain information on Hemp licenses, license applications, Reports provided to USDA under Section 1.60.040 below, and other relevant information regarding the Registered Land Area which Hemp is produced, including a legal description of the land, for a period of not less than three (3) calendar years.

Regulation 1.60.030**Privacy Protections**

Except as required by USDA Reporting and to law enforcement, the Agriculture Office shall remove the following from any collected information: all personally identifiable information including name; physical address; drivers' licenses; social security numbers; GPS coordinates; telephone numbers; email address. Such information shall be shielded by the Agriculture Office to the maximum extent permitted by law.

Regulation 1.60.040**Reporting to the USDA**

- A. **TRIBAL MONTHLY USDA PRODUCER AND DISPOSAL REPORT:** On the first of each month, the Agricultural Office will submit to the USDA a Report, in the format compatible with USDA's information sharing system, containing the following:
- i. The time period covered by the Report;
 - ii. If applicable, an indication that there were no changes during the time period;
 - iii. Contact information for each Hemp Producer;
 - iv. A legal description of each Hemp Producer's land, including to the extent practicable, geospatial location;
 - v. The acreage or indoor square footage dedicated to the production of Hemp for each Hemp Producer;
 - vi. The license number for each Hemp Producer;
 - vii. The status or status change and number of each Hemp Producer's License, including previously reported information and new information;
 - viii. If there have been any disposals that month, the Report must also include:
 - a. Name and address of the Hemp Producer;
 - b. Hemp Producer License number;
 - c. Location information (such as lot number, location type, and if practicable geospatial location) for the Grow Site subject to disposal;
 - d. Information on the agent who handled the disposal;
 - e. Disposal completion date; and
 - f. Total acreage disposed.

- ii. The projected harvest date(s) and location(s) of each Variety of Hemp Cultivated within a Registered Land Area. A Hemp Producer must notify the Agriculture Office immediately of any changes in the reported harvest date(s) in excess of seven (7) days.
 - iii. A Hemp Producer is not required to document the removal of male Hemp plants on a Harvest Report provided that the male Hemp plants are destroyed or used on the Registered Land Area prior to filing a Harvest Report for the remaining cannabis plants.
- D. A Hemp Producer must retain all documentation of sampling and testing for at least three (3) years in a manner such that it can be readily provided to the Agriculture Office upon request.

PART VII. INSPECTIONS, SAMPLING, TESTING, REMEDIATION, AND DISPOSAL

Regulation 1.70.010 Inspections

- A. The Agriculture Office shall conduct, at a minimum, an annual inspection of Licensees (Hemp Producers) and all Registered Land Areas to verify compliance with all requirements of the license issued and the provisions of this Code.
- i. The inspections may be without prior notice and inspection visits may be conducted at any time during regular business hours.
 - ii. Inspectors and/or Sampling Agents shall immediately be granted unrestricted access to the Registered Land Area(s) and all adjacent areas under the Licensee’s control.
 - iii. All samples collected by the Agriculture Office shall become the property of the Agriculture Office and no compensation shall be owed by the Agriculture Office for such samples.
 - iv. The Agriculture Office shall keep test results for all Hemp tested for a minimum of three (3) years.
 - v. The inspections may be of all Licensees or of a blindly-selected random sample of Licensees.
- B. The provisions set forth below in PART VIII VIOLATIONS will apply to any Licensee found to be in violation of this Code following any inspection.

Regulation 1.70.020 Lab Accreditation

- A. Compliance and safety testing for Hemp required by this Code shall be conducted by independent laboratories accredited to ISO/IEC 17025, the standard published by the International Organization for Standardization (the “ISO”) titled “General

requirements for the competence of testing and calibration laboratories,” or an accreditation standard required by the USDA and the Yakama Nation. All laboratories testing hemp regulated pursuant to this Code shall be DEA registered after December 31, 2022.

- B. Sampling and testing procedures and methods shall be conducted in accordance with the Sections below.
- C. All final test results must be certified by a DEA-registered laboratory before the Hemp can enter the stream of commerce.
- D. The Yakama Nation may in the future develop its own testing facility for Hemp. The RIL Committee retains the right to designate any future Tribal Testing Facility as the primary or sole testing authority for Hemp produced within the Territories of the Yakama Nation as long as such a facility meets all requirements described in this section.

Regulation 1.70.030 Procedure for Sampling and Testing

- A. The Agricultural Office will use the USDA Sampling Guidelines (issued Jan. 15, 2021) for Hemp Growing Facilities and the USDA Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol Concentration in Hemp (issued Jan. 15, 2021), each as may be amended from time to time, for purposes of establishing procedures both for effectively collecting samples and for testing the Delta-9 Tetrahydrocannabinol concentration levels of Hemp produced on or sold from the Territories of the Yakama Nation, using post-Decarboxylation or other similarly reliable methods.
- B. The Agriculture Office’s Sampling Agent will be trained using USDA and Yakama Nation training procedures for the trimming and collecting of Hemp samples to be tested at a testing facility. The Agriculture Office will maintain information regarding its trained Sampling Agents and will make that information available to Hemp Producers.
- C. Sampling Agents shall immediately be granted complete and unrestricted access during business hours to all Hemp and other Cannabis plants and to the Registered Land Area(s), buildings, and all adjacent areas under the Licensee’s control used for cultivation and/or handling of Hemp.

Regulation 1.70.040 Methods for Sampling and Testing

- A. The sampling methods used under this Code must ensure that a representative sample is collected that represents a homogenous composition of the lot and must be sufficient at a confidence level of 95% that no more than 1% of plants would exceed the Acceptable Hemp THC Level.
- B. The total THC concentration level shall be determined and reported on a Dry Weight Basis, and the testing methodology shall consider the potential conversion of Delta-9 Tetrahydrocannabinolic acid (THC-A) in Hemp into THC, and test results

will measure total available THC derived from the sum of the THC and THC-A content.

- D. Permitted testing methodologies include, but are not limited to, gas or liquid chromatography with detection.
- E. The total THC concentration level shall be determined and reported on a Dry Weight Basis.
- F. The Agriculture Office may choose to contract for such collection and testing services. A contracted Sampling Agent will be trained pursuant to USDA requirements. Information on a contracted agent will be made available to Licensees.

Regulation 1.70.050 Compliance Sampling and Testing Prior to Harvest

- A. When referring to “sampling” in this Section, sampling means the process of collecting cuttings from Hemp plants for purposes of compliance testing.
- B. A Hemp Producer must arrange for and ensure the sampling of each Harvest Lot no more than thirty (30) days prior to harvest for the purpose of ensuring that the Harvest Lot does not exceed the Acceptable Hemp THC Levels on a Dry Weight Basis. Samples will be collected by a sampling agent only.
- C. Compliance and safety testing for Hemp required under this Code shall be conducted by a DEA-registered laboratory.
- D. Representative samples collected from a Harvest Lot in accordance with this Section shall be delivered to and tested at a DEA-registered laboratory using a reliable methodology for Delta-9 Tetrahydrocannabinol testing. Any such analytical testing for purposes of detecting the concentration levels of THC shall comply with the standards set forth in 7 C.F.R. §§ 990.3(a)(3)(iii)(A-H), including using procedures to adhere to standards of performance for detecting THC concentration and using a Measurement of Uncertainty.
- E. A Hemp Producer shall not remove a Harvest Lot from a Registered Land Area (i.e., Grow Site) that has not been sampled and tested for compliance in accordance with this Section.
- F. Samples of Hemp plant material from one Harvest Lot shall not be commingled with Hemp plant material from other Harvest Lots.
- G. Samples shall include the flower material from the Hemp Crop for Delta-9 Tetrahydrocannabinol concentration testing purposes.
- H. Except for samples collected by the Sampling Agent for auditing, inspection, and performance-based purposes, all samples collected to determine compliance with

these rules shall be collected by an approved tribal, state, local or federal law enforcement agency, or other tribal, state, local, or federal designated Person.

- I. During a scheduled sample collection, the Hemp Producer or an authorized representative thereof shall be present at the Grow Site if possible.
- J. The required number and size of samples shall be determined in accordance with the USDA Sampling Guidelines for Hemp Producers, as amended from time to time.
- K. Any test of a representative sampling resulting in higher than the Acceptable Hemp THC Level shall be conclusive evidence that the Harvested Lot represented by the sample is not in compliance with this Code.
- L. Harvested Lots tested and not certified by a DEA-registered laboratory at or below the Acceptable Hemp THC Level may not be further handled, processed, or enter the stream of commerce. Cannabis containing more than the Acceptable Hemp THC Level is prohibited to be transferred or sold, and must be disposed of in accordance with this Code.
- M. Nothing in this Section shall prevent a Hemp Producer from voluntarily collecting samples and testing Hemp for quality assurance, research, and development purposes.
- N. The test results from voluntary tests performed by the Hemp Producer shall not be sufficient to evidence compliance with this Code.
- O. A Hemp Producer may apply to the Agriculture Office for retesting and/or resampling of any non-compliant Harvest Lot, which may be approved or denied at the Agriculture Office's discretion and subject to requirements in the Final Rule.

Regulation 1.70.060

Post-Testing Procedures

- A. The Hemp Producer must harvest the Hemp Crop no more than thirty (30) days following the sampling of the Hemp Crop. If the Hemp Crop within a Harvest Lot is not harvested within thirty (30) days from the sampling, another pre-harvest sampling must be taken and tested.
- B. If the Hemp plants are harvested prior to the return of the test results, the Hemp plants must be kept segregated from all other Harvest Lots and may not be comingled for any purpose.
- C. Once the Hemp Crop is certified by the testing facility as Hemp, it may be sold or transferred as authorized by the Hemp Producer's License.

Regulation 1.70.070

Federal Notice Required for Non-Compliant Test Results

The Agriculture Office shall promptly notify the USDA Agricultural Marketing Service Administrator of any occurrence of Cannabis plants or plant material that do not meet the definition of Hemp and will attach disposal records demonstrating the appropriate disposal of all of those plants and materials in the Harvested Lot from which the representative samples were taken.

Regulation 1.70.080

Remediation and Disposal of Non-Compliant Plants

Hemp that tests higher than the Acceptable Hemp THC Level shall be remediated or disposed of by the Hemp Producer in compliance with USDA Guidance on Remediation and Disposal (issued Jan. 15, 2021) and all applicable federal, tribal and local laws, regulations, rules and other requirements. Upon notification that a Harvest Lot has tested above the Acceptable Hemp THC Level, the Hemp Producer must notify the Agricultural Office of the Hemp Producer’s decision to either destroy or remediate the non-compliant Harvest Lot in accordance with this Code, USDA Guidance, and the Final Rule. Both remediation and disposal may be performed by the Hemp Producer, or an approved representative of the Yakama Nation or USDA. The Agriculture Office must verify that disposal or remediation occurred successfully.

Remediation can be achieved by separating and destroying non-compliant flowers while either retaining stalks, leaves, and seeds, or, by shredding the entire Hemp plant to create a homogenous biomass that can be retested for THC compliance.

- A. Separate and Remove Flowers: The remediator must remove and destroy the buds, trichomes, trim, and kief from the plants within the non-compliant Harvest Lot. The remediator may remove the non-compliant buds, trichomes, trim, and kief by hand or by the use of a mechanical device that can properly remove the non-compliant buds, trichomes, trim, and kief.
 - i. The leftover stalks, leaves, and seeds must be separated from the non-compliant floral material and labeled clearly and demarcated as “hemp for remediation purposes.”
 - ii. Seeds removed from non-compliant hemp during remediation must not be used for propagative purposes.
 - iii. Remediated stalks cannot leave the labeled and demarcated area until a test result showing compliance with the Acceptable Hemp THC Level is received or until the remediated stalks are destroyed. The resample must be taken by a Sampling Agent as described in the USDA’s Sampling Guidelines and as outlined in this Code.
 - iv. Any stalks that remain above the Acceptable Hemp THC Level after remediation and retesting shall be destroyed through any process outlined in this Code and the USDA Remediation and Disposal Guidelines (issued Jan.

15, 2021). The Agriculture Office must verify that disposal occurred successfully.

- B. Creation of Biomass: The entire non-compliant Harvest Lot, as reported to the FSA, can be shredded to create a homogenous, uniform biomass, which can be achieved by shredding the non-compliant Harvest Lot through shredders, composters, or special mechanical equipment.
- i. The biomass process must ensure that the non-compliant Harvest Lot is crushed, shredded, or mulched.
 - ii. The biomass created through this process shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with the Final Rule. Biomass that fails retesting is non-compliant Hemp and shall be destroyed.
 - iii. Remediated biomass must be separated from any compliant hemp stored in the area and clearly labeled and demarcated as “hemp for remediation purposes.” All Harvest Lots subject to remediation should be stored, labeled and demarcated apart from each other and from other compliant hemp lots stored or held nearby.
 - iv. Remediated biomass cannot leave the labeled and demarcated area until a test result showing compliance with the Acceptable Hemp THC Level is received or until the biomass is destroyed.
 - v. The resample should be taken by a Sampling Agent as described in the USDA’s Sampling Guidelines and as outlined in this Part of the Code.
 - vi. When resampling, a representative sample of the biomass should be taken for compliance purposes. The Sampling Agent must take biomass material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of the material. At minimum, ~750 mL or three (3) standard measuring cups of biomass material should be collected. Sampling Agents may collect more biomass material based on the requirements of the testing laboratory. If ~750 mL of material is not available, the sampling agent should collect enough biomass material for a representative sample.
 - vii. An original copy of the resample test results, or a legible copy, must be retained by the Licensee or an authorized representative and be available for inspection for a period of three (3) years from the date of receipt.
 - viii. Laboratories testing a resample must use the same testing protocols as when testing a standard sample of Hemp.

Disposal can be achieved through any process outlined in the USDA Remediation and Disposal Guidelines (issued Jan. 15, 2021). The Agriculture Office must verify that disposal occurred successfully. Disposal can be accomplished by:

- i. Plowing a non-compliant Hemp Lot with curved plow blades that rotate subsoil to the surface and bury the crop below;
- ii. Mulching or composting field crops by cutting or blending crop with manure or other biomass material.
- iii. Disking or leveling the crop using a tow-behind disk implement to amend soil directly from the crop while leveling the field.
- iv. Commercial Bush Mower or Chopper to shred and mix vegetation to decompose into the soil.
- v. Deep burial of crop by trenching the field and burying surface soil at a depth of twelve (12) inches.
- vi. Burning or setting fire to specific non-compliant production fields or biomatter piled on the field in order to clear all plant material.

Part. VIII. LICENSE VIOLATIONS

Regulation 1.80.010 Negligent License Violations

- A. A Licensee has Negligently violated the Yakama Nation’s License requirements if they negligently (each represents a “Negligent Violation”):
 - i. Fail to provide a legal description of land on which the Hemp Producer Cultivates Hemp;
 - ii. Fail to obtain a License or other required authorization from the Agriculture Office as applicable; or
 - iii. Produce Cannabis sativa L. with a THC concentration of more than the Acceptable Hemp THC Level.
- B. Notwithstanding the provisions above, a Hemp Producer does not commit a Negligent Violation under this Section if such Hemp Producer makes reasonable efforts to grow Hemp, and the Cannabis does not have a Delta-9 Tetrahydrocannabinol concentration of more than 1.0 percent on a Dry Weight Basis.
 - i. For the purposes of this Section, the RIL Committee shall determine whether a Hemp Producer has taken reasonable efforts to grow Hemp.
 - ii. Reasonable efforts involve taking necessary steps and precautions to produce Hemp, and may include without limitation using certified seed, using other seed that has reliably grown compliant plants, or engaging in other best practices.

C. Corrective Action Plan. A Hemp Producer that the RIL Committee determines has committed a Negligent Violation under this Section shall correct the Negligent Violation. To correct the violation, the Hemp Producer shall:

- i. Provide the RIL Committee with a reasonable date by which the Hemp Producer shall correct the Negligent Violation;
- ii. Periodically report to the RIL Committee and the Agriculture Office on the Hemp Producer's compliance with this Code for a period of not less than the two (2) calendar years following the Negligent Violation. The reporting periods and the term of reporting shall be determined by the RIL Committee and/or the Agriculture Office on a case-by-case basis.

The Agriculture Office shall conduct an inspection to determine if the Hemp Producer has implemented the Corrective Action Plan as submitted.

D. Potential Criminal Liability. A Hemp Producer that negligently violates this Code shall not, as a result of that violation, be subject to any criminal enforcement action.

Regulation 1.80.020 Repeat Negligent Violations

A Hemp Producer that negligently violates this Hemp Regulatory Code 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.

Regulation 1.80.030 Other Violations

A. If the Agriculture Office determines that a Licensee within the Territories of the Yakama Nation has violated Yakama Nation Hemp laws or Hemp regulations with a culpable mental state greater than negligence, the Agriculture Office shall immediately report the Licensee to:

- i. The United States Attorney General or his designee; and
- ii. The Yakama Nation Tribal Police.

B. The provisions set forth in the above sections regarding Negligent Violations shall not apply to a violation in this section.

Regulation 1.80.040 Revocations, Suspensions, Penalties, and Civil Enforcement

A. The Agriculture Office may, at its discretion, revoke or suspend any License issued under this Code, or subject a Licensee to other civil penalties for violation of Yakama or federal law, this Code, or other rules or regulations promulgated by the Agriculture Office.

B. When necessary, the Agriculture Office will investigate and/or determine whether a Licensee has violated any provision of this Code. If the Agriculture Office or its

agents conclude a Licensee is in violation of this Code, it will determine whether a civil citation, revocation, suspension, or enforcement action is necessary.

- C. In the event the Agriculture Office determines a civil citation, revocation, suspension, or enforcement action is necessary, the Agriculture Office shall issue a civil citation notifying the Licensee of a violation and noting which part of the Code the Licensee had been found to be in violation of and serve the citation upon the licensee by mail and email at the physical and email addresses listed on the Licensees' application filed with the Agriculture Office. The citation is deemed to be served upon the Licensee within three (3) days of mailing. The citation shall have a clearly indicated choice for the Licensee to either mark agreement with the citation or to mark disagreement and an intent to challenge the citation.
- D. Upon receipt of the citation, the Licensee may choose to pay a fine in the manner prescribed by the Agriculture Office, or challenge the citation to the RIL Committee. The Licensee will have thirty (30) days from service of the citation to challenge a citation.
- E. The RIL Committee shall preside as sole adjudicator for the purposes of civil enforcement of the Code. Any decision by the RIL Committee's challenging an Agriculture Office citation shall be final.
- F. The RIL Committee shall promulgate rules consistent with this provision and any other rule necessary to assist the procedure for challenging and hearing a civil citation. The RIL Committee shall make those rules available to all licensees.

PART IX. MISCELLANEOUS

Regulation 1.90.010 Taxes and Fees

Subject to RIL Committee approval, the Agriculture Office shall determine appropriate taxes and fees for the activities described in this Code. The Agriculture Office shall maintain a tax and fee schedule which will be made available to Applicants and Licensees.

Regulation 1.90.020 Restrictions on Cannabis

No Registered Land Area or storage area may contain cannabis plants or parts thereof that the Licensee knows or has reason to know are of a variety that will produce a plant that when tested will produce more than 0.3% THC concentration on a Dry Weight Basis.

Regulation 1.90.030 Hemp Seeds

Hemp Producers may obtain Hemp Seeds from sellers Licensed by the USDA or under a valid State or Tribal plan. Hemp Producers may also obtain legally imported Hemp Seeds from Canada if accompanied by either:

- i. A phytosanitary certification from Canada's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected; or

“Agriculture Office” means the Yakama Nation program or department responsible for the oversight and implementation of the Hemp Regulatory Code as designated by the Yakama Nation.

“Applicant” means a Person or Entity who submits an application to the Yakama Nation for a license to grow, handle, or sell Hemp.

“Cannabis” means the genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis refers to any form of the plant in which the Delta-9 Tetrahydrocannabinol concentration on a Dry Weight Basis has not yet been determined.

“Controlled Substance” means a drug or other substance that is considered a controlled substance pursuant to tribal, state, or the federal Controlled Substances Act as codified in 21 U.S.C. 801 et. seq.

“Conviction” means any plea of guilty or nolo contendere, or any finding of guilt in a court of competent jurisdiction, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of this part, 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, the individual is no longer considered to have a conviction for purposes of this part.

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

“DEA” means the United States Drug Enforcement Administration.

“Decarboxylate” or **“Decarboxylation”** means the chemical reaction that converts THC-acid (“THC-A”) into Delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums Delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-A.

“Delta-9 Tetrahydrocannabinol” or **“Delta-9 THC”** or **“THC”** means Delta-9 Tetrahydrocannabinol concentration (the primary intoxicating component of Cannabis). For purposes of this Code, Delta-9 Tetrahydrocannabinol and THC are interchangeable.

“Disposal” means destroying non-compliant Hemp using one of the approved on-farm methods. Approved methods include plowing under, mulching / composting, disking, bush mowing, deep burial, and burning the non-compliant Hemp.

“Dry Weight Basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in that sample. In the case of Cannabis, a percentage of THC on a Dry Weight Basis means the percentage of THC, by weight in a Cannabis item (plant, extract or other derivative) after excluding moisture from the item.

“**Entity**” *means* a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

“**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.

“**GPS**” *means* the Global Positioning System.

“**Grow Site**” is the approved area where Industrial Hemp is grown. A Grow Site may include fields, greenhouses, or other buildings, or the area in which Hemp is processed into Hemp Products.

“**Handler**” *means* a Person or Entity that receives Industrial Hemp for processing into commodities, products or agricultural Hemp seed.

“**Handling site**” *means* one contiguous lot, parcel, or tract of land used to handle or intended to handle Industrial Hemp.

“**Harvest Lot**” *means* a quantity of Hemp, of the same Variety, harvested in a distinct timeframe that is: (1) Cultivated in one contiguous area within a Grow Site; or (2) Cultivated in a portion or portions of one contiguous area within a Grow Site. Harvest Lot does not include a quantity of Hemp comprised of Hemp grown in noncontiguous areas.

“**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 total THC concentration of not more than 0.3 percent on a Dry Weight Basis.

“**Hemp Activity**” *means* the growth, handling, or sale of Hemp.

“**Hemp Crop**” *means* one (1) or more unprocessed Hemp plants or plant parts.

“**Hemp Producer**” *means* any Person growing, cultivating, handling or harvesting Hemp, Hemp Crops, Hemp seeds, or Hemp propagules within the Territories of the Yakama Nation, and who is licensed by the Agriculture Office to Cultivate or Handle Hemp within the Territories of the Yakama Nation.

“**Hemp Products**” *means* products made from industrial Hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, building materials, plastics, seed, livestock feed, seed meal, seed oil intended for consumption, seed certified for cultivation, extracted chemicals from leaves, stems, roots, flowers and seed for therapeutic, nutritional, pharmaceutical, and nutraceutical products, or any other Hemp Product derived from Hemp.

“Hemp Program” *means* the cannabis regulatory framework established under this Code with respect to Hemp.

“Hemp Seller” *means* any Person marketing, distributing, or selling, wholesale or retail, Hemp or Hemp-based Products.

“Key Participants” *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.

“Lessee” *means* a Person or Entity, licensed by the Tribe, who leases land within the Territories of the Yakama Nation in order to Cultivate or handle Hemp.

“Licensee” *has the same meaning* as **“Hemp Producer”** and **“Hemp Seller”** as those terms are defined in this Section, above.

“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.

“Person” *means* any Person who is an enrolled member of the Yakama Nation, any non-member Indian Person that is enrolled with another tribe, and any non-Indian Person.

“Registered Land Area” *means* the area where Industrial Hemp is grown or is intended to be grown and may include fields, greenhouses, or other buildings, or the area in which Hemp is processed into Hemp Products. The Registered Land Area is the area included in the Applicant’s application for a License under this Code.

“Remediation” *means* any process by which non-compliant Hemp is rendered compliant. Remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves, and seeds; or by shredding the entire hemp plant to create a homogenous “biomass” that can be retested for THC compliance.

“Report” *means* any data, statistics, or information required to be gathered, maintained, or provided by the Yakama Nation.

“Reservation” *means* all lands within the exterior boundaries of the Yakama Nation’s Reservation as defined in Article II of the Treaty with the Yakamas.

“Reverse Distributor” *means* a Person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

“Roads, Irrigation, and Lands Committee” or **“RIL Committee”** *means* those members of Yakama Nation Tribal Council’s elected leadership that currently serve as members of the Yakama Nation’s Roads, Irrigation, and Lands Committee. The RIL Committee serves as the oversight committee for the purposes of this Code.

"Sampling Agent" means a Person who is trained, pursuant to USDA and the Yakama Nation's standards, to cut, trim, store, and collect samples of a Hemp Producer's Hemp Crop to determine if that Hemp Crop exceeds the Acceptable Hemp THC Level.

"Secretary" means the Secretary of Agriculture of the United States Department of Agriculture.

"Territories of Yakama Nation" means all lands within the exterior boundaries of the Yakama Reservation; all Yakama Nation allotments, located both on and off the Yakama Reservation that still possess an Indian title; and, any lands, both on and off the Yakama Reservation, title to which is either held in trust by the United States for the benefit of the Yakama Nation, or its members, which remain subject to restriction against alienation and over which the Yakama Nation exercises jurisdiction.

"THC" means the primary psychoactive component of Cannabis. For the purposes of this Code, Delta-9 THC and THC are interchangeable.

"THCA" means tetrahydrocannabinolic acid.

"Total THC" means the value determined after the process of decarboxylation, that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: $[\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}]$ which calculates the potential total THC in a given sample.

"Variety" means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

"Yakama Law" means the laws, regulations, and codes of the Yakama Nation.

"Tribe" means the Yakama Nation.