

## **Chapter 19. Hemp Authorization and Regulatory Commission Statute**

### **7.1901 PURPOSE**

The purpose of this Statute is to authorize the regulating of Hemp, and create the Hemp Regulatory Commission that will license, regulate, inspect and have enforcement regulatory power for Hemp Operations and repeals and replaces WOS 2019-013 and any previous Statutes including WOS 2019-008.

(Source: WOS 2020-015, May 30, 2020, Section I)

### **7.1902 DEFINITIONS**

A. “Acceptable Hemp THC Level” means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The Acceptable Hemp THC Level for the purpose of compliance with the requirements of State, Tribal, or USDA hemp plans is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/- 0.06%, the measured delta-9 tetrahydrocannabinol content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for the purpose of plan compliance. This definition of “Acceptable Hemp THC Level” affects neither the statutory definition of hemp, 7 U.S.C. § 1639o (1), in the 2018 Farm 121 Bill nor the definition of “marihuana,” 21 U.S.C. § 802(16), in the federal Controlled Substances Act. (“CSA”).

B. “Act” means the Agricultural Marketing Act of 1946.

C. “Applicant” means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the industrial Hemp program.

D. “Cannabis” means a 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.

**E.** “CBD” means cannabidiol.

**F.** “Certified seed” means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.

**G.** “Commission” means the Hemp Regulatory Commission which is comprised of three to five appointed officials, and duly authorized staff exercising delegated authority of the Commission.

**H.** “Controlled Substances Act” (“CSA”) means the Controlled Substances Act as codified in 21 U.S.C. 801 *et seq.*

**I.** “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. For purposes of this Statute, 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 Statute.

**J.** “Corrective Action Plan” means a plan established pursuant to this Statute for a licensed hemp Producer to correct a negligent violation or non-compliance with a hemp production plan and/or 7 C.F.R. Part 990.

**K.** “Criminal History Report” means the Federal Bureau of Investigation’s Identity History Summary.

**L.** “Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.

**M.** “DEA” means the United States Drug Enforcement Administration

**N.** “Decarboxylated” means the completion of the chemical reaction that converts THC-acid 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-acid.

**O.** “Delta-9-THC” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

**P.** “Directly related to” means immediate family relations as defined in the Tribe's Constitution or any other statute defining nepotism.

**Q.** "Dry Weight Basis" means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. 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.

**R.** "Entity" means 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.

**S.** "Farm Service Agency" or "FSA" means an agency of the United States Department of Agriculture.

**T.** “Financial Interest” is a person or entity that has more than a five (5) percent interest, share or ownership in an operation(s).

**U.** "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.

**V.** "GPS" means Global Positioning System.

**W.** "Grower licensing agreement" means a document executed by a person and the Commission authorizing the person to grow, handle, and store Hemp at one (1) or more specified locations.

**X.** "Handle" means to harvest or store hemp or hemp plant parts 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.

**Y.** "Harvest Lot" means a quantity of Hemp, of the same Variety, harvested in a distinct timeframe that is cultivated in one contiguous production area of a field, greenhouse or indoor growing structure containing the same variety or strain of cannabis throughout the area.

**Z.** "Harvest Lot Identifier" means a unique identifier used by the Commission to identify the Harvest Lot.

**AA.** "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 delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

**BB.** "Hemp Crop" means one (1) or more unprocessed Hemp plants or plant parts.

**CC.** "High performance liquid chromatography" or "HPLC" means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid absorbent material to separate and analyze compounds.

**DD.** "Industrial Hemp products" means products derived from, or made by, processing industrial Hemp plants or plant parts.

**EE.** "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.

**FF.** "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.

**GG.** “Law enforcement agency” means the Little Traverse Bay Bands of Odawa Indians Tribal Police, *Drug Enforcement Administration* (DEA), or other federal law enforcement agency or drug suppression unit having jurisdiction.

**HH.** “Location” or “Land” means the particular land, building or buildings where Hemp will be grown, handled, stored, or processed, which can include a field name or building name.

**II.** “Location ID” means the unique identifier established by the applicant for each unique set of GPS coordinates or Geospatial location where Hemp will be grown, handled, stored, or processed, which can include legal description, a field name or building name.

**JJ.** “Marijuana” or “marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The term ‘marihuana’ does not include hemp, as defined in section 297A of the Agricultural Marketing Act of 1946, and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination (7 U.S.C. 1639o). “Marihuana” means all cannabis that tests as having a concentration level of THC on a dry weight basis of higher than 0.3 percent.

**KK.** "Measurement of Uncertainty" or "MU" 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.

**LL.** "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Statute, the Act or 7 CFR Part 990.

**MM.** “Nonviable seed” means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

**NN.** “Person” means an individual or business entity.

**OO.** "Pesticide" means any substance or mixture of substances intended to:

1. Prevent, destroy, control, repel, attract, or mitigate any pest.
2. Be used as a plant regulator, defoliant, or desiccant. or
3. Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.

**QQ.** "Phytocannabinoid" means cannabinoid chemical compounds found in the cannabis plant, two of which are Delta-9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).

**RR.** "Postdecarboxylation" means, in the context of testing methodologies for THC concentration levels in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, 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 postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THC-A to calculate total potential THC in a given sample. See the definition for decarboxylation.

**SS.** "PPM" means parts per million.

**TT.** "Pre-harvest sample" means a composite, representative portion from plants in a Hemp lot collected in accordance with the procedures as established by the Commission and federal law.

**UU.** "Produce" means to grow hemp plants for market, or for cultivation for market, pursuant to this Statute.

**VV.** "Producer" means a Producer as defined in 7 CFR 718.2 that is licensed or authorized to produce hemp under this Statute and 7 CFR Part 990, specifically, "an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A Producer includes a grower of hybrid seed."

**WW.** "Prohibited variety" means a variety or strain of cannabis excluded by the Commission.

**XX.** “Program” means the Commission’s Industrial Hemp Program.

**YY.** “Propagule” means a plant or plant part that can be utilized to grow a new plant.

**AAA.** “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.

**BBB.** “Seed source” means the origin of the seed or propagules as determined by the Commission.

**CCC.** “Signing authority” means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

**DDD.** “Territory of the Tribe” has the same meaning as “Indian Country” in 18 U.S.C. 1151.

**EEE.** "Tribe" or "LTBB" means the Little Traverse Bay Bands of Odawa Indians which was reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as a federally recognized tribe, and are recognized as possessing powers of self-government.

**FFF.** "Tribal Police" or "Tribal Law Enforcement" shall mean the Little Traverse Bay Bands of Odawa Indians Tribal Police Department.

**GGG.** "Tribal Council" means the Legislative body of the Little Traverse Bay Bands of Odawa Indians (LTBB).

**HHH.** "Tribal Court" means the LTBB Court created under Article IX of the LTBB Constitution.

**III.** “Variety” means a subdivision of a species that is:

**1.** Uniform, in the sense that the variations in essential and distinctive characteristics are describable.

**2.** Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties. and

**3.** Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

**JJJ.** “Variety of concern” means any variety of Hemp in the Commission’s program that tests above 3,000 ppm or 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A Hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

**KKK.** “Volunteer cannabis plant” means any cannabis plant that grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop. and is not intentionally planted.

(Source: WOS 2020-015, May 30, 2020, Section II)

### **7.1903 HEMP AUTHORIZED**

This Statute authorizes the Production and Handling of Hemp within locations within the Territory of the Tribe.

(Source: WOS 2020-015, May 30, 2020, Section III)

### **7.1904 HEMP REGULATORY COMMISSION**

**A.** The Tribe hereby establishes a Hemp Regulatory Commission as an Executive Commission whose duty it is to regulate Hemp operations. The Commission shall consist of at least three (3) but not more than five (5) persons. There shall be among them a Chairperson, Vice-Chairperson, Secretary and Treasurer, provided the Secretary and Treasurer may be combined into one position.

**B.** The purpose of the Commission is to ensure compliance with Tribal, Federal, and, if applicable, State laws and regulations. The Commission will serve as the licensing authority for Hemp Production within the Territory of the Tribe. The Commission shall have authority to take all actions authorized by this Statute. In order to carry out its regulatory duties, the Commission



shall have unrestricted access to all areas of a Hemp operation and to all records. The Commission shall have authority to take enforcement actions as authorized by this Statute.

C. The Tribe recognizes the importance of an independent Commission in maintaining a well-regulated Hemp operation. The Commission shall be and act independently, and autonomously from the Tribal Council in all individual licensing decisions. No prior or subsequent review by the Tribal Council of any licensing and fining actions of the Commission shall be required or permitted except as otherwise explicitly provided in this Statute. To avoid potential conflicts of interest between an operation and regulation of the Hemp facility, the Tribe hereby finds that, at a minimum:

1. No member of the Tribal Council may serve on the Commission.
2. No person with a financial interest in a Hemp Producer shall serve on the Commission.
3. The following persons are ineligible to serve on the Commission: employees of any Hemp producer or persons directly related to or sharing a residence with any Hemp Producer.

D. The members of the Commission shall be appointed by the Tribal Council as follows:

1. Composition of the Commission. The Commission shall consist of three (3) to five (5) people appointed by the Tribal Council and shall be licensed.
2. Term. Members of the Commission shall be appointed to serve for three (3) year terms. Terms shall be staggered so no more than two terms start in any one year. Members may be reappointed for additional terms without limitation.
3. Subject to the availability of funding and a budget approved by the Tribal Council, members of the Commission may receive a stipend, mileage and expense reimbursement in accordance with a stipend policy adopted by the Tribal Council.

E. The Commission shall:

1. Approve the permitting of a "Location" or "Land".

2. Ensure that Criminal History checks are conducted in accordance with this Statute and federal law.
3. Make suitability determinations, which shall be signed by a majority of the Commissioners present when the license is approved.
4. Issue Hemp licenses to Hemp Producers, consistent with the suitability determination.
5. Inspect, examine and monitor all Hemp Producers, and have immediate access to review, inspect, examine, photocopy and audit all Hemp related records of any Hemp Producer.
6. Ensure compliance with all Tribal and Federal laws, rules, and regulations regarding Hemp.
7. Investigate any suspicion of wrongdoing associated with any Hemp activities, and report any potential criminal violations to Tribal Law Enforcement and federal authorities as required by this Statute.
8. Promulgate and issue regulations on the levying of fees associated with Hemp license applications.
9. Promulgate and issue regulations on suspension or revocation of Hemp licenses for violations of this Statute, or any other Tribal, Federal, or (if applicable) State Hemp regulations, as set forth in this Statute.
10. Perform such other duties the Commission deems appropriate for the proper regulation of the Hemp operation, consistent with federal law.
11. The Commission shall be authorized to employ such staff and/or consultants as reasonably may be required to fulfill its responsibilities under this Statute.
12. The Commission shall ensure that all records and information obtained as a result of a background investigation or criminal history check shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process.

**G.** The Commission shall collect, and retain for a period of at least three calendar years, Location ID information for every site or location where the Commission has approved Hemp to be grown.

**H.** The Commission shall issue hemp licenses authorized by this Statute, consistent with the suitability determination, and shall assign each producer with a license or authorization identifier in a format prescribed by USDA.

**I.** Removal. Members of the Commission can only be removed by a majority vote of Tribal Council.

**J.** A majority of the sitting members of the Commission shall constitute a quorum. The concurrence of a majority of the members appointed to the Commission shall be required for any final determination by the Commission. The Commission may act in its official capacity even if there are vacancies on the Commission.

**K.** The Commission shall keep a written record of all its regularly scheduled, special, and emergency meetings, and licensing hearings and meetings.

**J.** All regulations promulgated under this Statute shall be submitted to Tribal Council for approval.

(Source: WOS 2020-015, May 30, 2020, Section IV)

## **7.1905 LICENSING APPLICATION**

**A.** Producer License Application.

**1.** Any person who wishes to produce Hemp at any location within the Territory of the Tribe shall submit to the Commission a completed License Application no less than once every three (3) years.

**2.** A person who does not hold a license from the Commission shall not Produce Hemp at any location within the Territory of the Tribe.

3. The Commission shall deny any Producer License Application that fails to meet the deadline established in the application.
4. Each Applicant shall pay an application fee in the amount established and approved by Tribal Council.
5. The Application shall include the following at a minimum:
  - i. Full name, residential address, telephone number, and email address, if an email address is available, of the Applicant.
  - ii. If the applicant represents a business entity:
    - a) the full name of the business;
    - b) the principal business location address;
    - c) the full name of the applicant who will have signing authority on behalf of the entity, and title, and email address if an email address is available, of the person;
    - d) the full names, addresses, phone numbers and email addresses (if available) of all owners, operators, landlords, tenants, or sharecroppers, who share in the risk of producing a hemp crop and who are entitled to share in the hemp crop available for marketing from the hemp growing operation, or who would have shared had the crop been produced;
    - e) the full names, addresses, telephone numbers and email addresses of all Key Participants of the business entity; and
    - f) the EIN of the business entity.
  - iii. Documentation showing either a valid tenancy, ownership or other legal interest in the proposed property.
  - iv. Street address, location ID, legal description and GPS coordinates or Geospatial location for each field, greenhouse, building, or site where Hemp will be grown, handled, processed or stored.

- v. Information regarding any other Hemp growing or processing facility that is licensed in any other jurisdiction.
7. A current Criminal History Report for the Applicant/Producer, and for Applicants that are entities, all Key Participants, dated within 60 days prior to the application submission date. A license application will not be considered complete without all required Criminal History Reports.
8. A business plan and operations plan shall be included with the application that includes at a minimal the following:
- i. The proposed acreage or greenhouse or indoor square footage to be planted or used for processing.
  - ii. A description of the type of facility proposed and the anticipated or actual number of employees. The name of the proposed Manager of the Facility.
  - iii. A security plan which shall include a general description of the security systems(s) and lighting plan showing the outside lighting, and current centrally alarmed and monitored security system service agreements.
  - iv. A list of pesticides, and other chemicals proposed for use.
  - v. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including assurances that no odor will be detected from outside the Location.
  - vi. A statement of previous farming experience.
  - vii. Planned source of seeds or propagules.
8. Any License Application that is missing required information shall be subject to denial.
9. The Commission shall notify applicants by letter or email whether the application has been denied or conditionally approved.
10. Producers and the Commission shall retain all information required by this Section V(A) for at least three (3) calendar years.

**B. Criminal History Reports.**

1. Each Applicant/Producer, and if the Applicant is an entity, persons with a financial interest in the applicant, and all Key Participants of the Applicant/Producer shall submit Criminal History Reports with the application.
2. The Criminal History Report shall consist of a current Federal Bureau of Investigation Identity History Summary.
3. The Criminal History Report shall be dated within sixty (60) days of the submission of the application material.
4. The criminal History Report must indicate that the applicant shall not have had a felony conviction related to a controlled substance within the past ten (10) years.

(Source: WOS 2020-015, May 30, 2020, Section V)

**7.1906 LOCATION OR LAND PERMIT**

- A. A licensed Producer shall not plant or grow any cannabis that is not Hemp.
- B. A licensed Producer shall not plant or grow Hemp or other cannabis on any site not listed in the Producer licensing agreement.
- C. A licensed Producer shall not grow Hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- D. A licensed Producer shall not handle or store leaf or floral material from Hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- E. Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the Commission.
- F. A licensed Producer shall not plant Hemp or other cannabis plants in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in

writing from the Commission.

**G.** A licensed Producer shall not grow Hemp or other cannabis in any outdoor field or site that is located within 1,000 feet of a school or a public recreational area.

**H.** An applicant or licensed Producer shall not include any property on his or her application or Site Modification Request, to grow or cultivate Hemp that is not owned or completely controlled by the applicant or licensed Producer.

**I.** A licensed Producer shall not grow, handle, or store Hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or was terminated, or denied a license.

(Source: WOS 2020-015, May 30, 2020, Section VI)

#### **7.1907 APPEALS**

**A.** Any person who would like to challenge a denial of a license or a suspension of a license must request a hearing before the Commission, prior to an appeal being filed in Tribal Court. The Commission Hearing shall be open to the public and occur at a time and date and location designated by the Commission.

**B.** The Court shall uphold the decision of the Commission unless the Court determines that the Commission's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

(Source: WOS 2020-015, May 30, 2020, Section VII)

#### **7.1908 PRODUCER LICENSING AGREEMENTS**

**A.** An applicant shall not be a participant in the Commission's program until the conditionally approved applicant and the Commission have executed a Producer licensing agreement.

**B.** The agreement shall have a consent to entry onto, and inspection of, all premises where Hemp or other cannabis plants or materials are located, or licensed to be located, by

representatives of the Commission and law enforcement agencies, with or without cause, with or without advance notice.

**C.** Consent to forfeiture and destruction, without compensation, of:

- 1.** Material found that exceeds the Acceptable Hemp THC Level.
- 2.** Hemp plants located in an area that is not licensed by the Commission
- 3.** Hemp plants not accounted for in required reporting to the Commission.

**D.** The Applicant agrees to apply for registration of all Hemp Production locations, including a legal description of the location, GPS coordinates or Geospatial location, and receive Commission approval for those locations prior to having Hemp on those premises.

**E.** The Applicant acknowledges that licensed Producers shall submit a Site Modification Request Form, the appropriate fees based on the requested changes, and obtain prior written approval from a representative of the Commission before implementing any change to the licensed sites stated in the Producer licensing agreement, and that Hemp Production site changes shall be subject to a site modification surcharge.

**F.** The Applicant acknowledges that Hemp shall not be Produced in any location other than the location listed in the Producer licensing agreement.

**G.** The Applicant agrees not to interplant Hemp with any other crop.

**H.** The Applicant acknowledges that anyone applying pesticides to Hemp shall hold a pesticide license and apply pesticides in accordance with regulations or the agreement.

**I.** The Applicant acknowledges that licensed Producers shall comply with restrictions established by the Commission limiting the transportation of Hemp plants and plant parts.

**J.** The Applicant acknowledges that the risk of financial or other loss shall be borne solely by the licensed Producer.

**K.** The Applicant agrees that any time Hemp is in transit, a copy of the Producer licensing



agreement, 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, a copy of the transport manifest that includes all information required to be documented by the Commission or the Tribe, and any other documentation that may be required by the Tribe, the Commission, or the USDA, shall be available for inspection upon the request of a representative of the Commission or a law enforcement agency.

**L.** The Applicant agrees that, upon request from a representative of the Commission or a law enforcement agency, a licensed Producer shall immediately produce a copy of his or her Producer licensing agreement for inspection.

**M.** The Applicant agrees to submit Planting Reports, Harvest/Destruction Reports, and Production Reports, and other reports required by the Commission or any federal authority, to which the Producer has agreed, on or before the deadlines established in this Statute.

**N.** The Applicant agrees to scout and monitor unregistered fields for volunteer cannabis plants and to destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the Commission.

**O.** The Applicant agrees not to employ or rent land to Produce Hemp from any person who was terminated or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable Criminal History Report; or
2. Failure to comply with an order from a representative of the Commission.

**P.** The Applicant agrees that land used for the Production of Hemp shall not be owned by or leased from any person who was terminated, or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable Criminal History Report or
2. Failure to comply with an order from a representative of the Commission.

**Q.** The Applicant agrees to notify the Commission of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) calendar days of the occurrence.

**R.** The Applicant agrees to notify the Commission of any theft of cannabis materials,

whether growing or not.

S. Failure to agree or comply with terms and conditions established in the Producer licensing agreement shall constitute grounds for appropriate Commission action, up to and including termination of the Producer licensing agreement and expulsion from the Commission's program.

T. A person who has been expelled from the program shall not be eligible to reapply to the program for a period of five (5) years from the date of expulsion.

U. Failure to agree and sign the Producer licensing agreement shall terminate conditional approval and a licensing agreement shall not be executed.

(Source: WOS 2020-015, May 30, 2020, Section VIII)

#### **7.1909 REGULATIONS FOR SAMPLING AND THC TESTING**

A. The Commission shall adopt Regulations for Sampling, Testing, and Post-Testing Actions consistent with this Statute, applicable federal law, and that contain the following, but not limited to:

1. Handling Procedures of Pre-Harvest Samples
2. Pre-Harvest Sampling Procedure
3. *A Harvest/Destruction Report* Form and Reporting consistent with federal law.
4. Time-frames and Producer Responsibilities.
5. Inspections and sample collection.
6. Process for harvested materials from Varieties of Concern.
7. Floral materials harvested for testing.
8. Notification and reporting consistent with federal law.

9. Equipment Used.

10. Selecting Samples for Testing

**B.** Any regulations promulgated or required in accordance with this Statute shall be consistent with applicable federal law, follow the Tribe's Administrative Procedures Act and be submitted to Tribal Council for approval. Any changes to the Tribal plan will be submitted to the USDA for approved, before implementation.

(Source: WOS 2020-015, May 30, 2020, Section IX)

#### **7.1910 SITE MODIFICATIONS AND SITE MODIFICATION SURCHARGE FEES**

**A.** A licensed Producer who elects to Produce Hemp on a site other than the sites specified by a legal description and the GPS coordinates or Geospatial location listed in the Producer licensing agreement shall submit a Site Modification Request Form, and obtain written approval from a representative of the Commission, prior to planting at the proposed location. The Commission shall report any location change to the FSA.

**B.** Any request for a new hemp production location shall comply with the land use restrictions.

**C.** The Commission shall charge a site modification surcharge fee for each new production location, be it an individual field or greenhouse or indoor structure, where Hemp will be planted.

**D.** The Commission shall not approve a site modification request for a new production location until the Commission has received the site modification surcharge fee.

(Source: WOS 2020-015, May 30, 2020, Section X)

#### **7.1911 SEED ACQUISITION WITHIN THE UNITED STATES**

**A.** A person shall not acquire seeds or propagules from a source within the United States without first:

1. Submitting a complete Domestic Seed/Propagule Request form, and
  2. Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the Commission.
- B.** The Commission shall not approve a Domestic Seed/Propagule Request unless the licensed Producer affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person.
- C.** A person submitting a Domestic Request form shall submit to the Commission documentation showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC content of not more than 3,000 ppm on a dry weight basis from an independent third-party laboratory.
- D.** A person submitting a Domestic Seed/Propagule Request form shall submit to the Commission documentation verifying the seed or propagule source as a current legal Hemp operation in the state of origin.
- E.** A person acquiring seeds or propagules shall arrange for the seeds or propagules to arrive at the Commission for inventory and distribution.
- F.** Upon request from a representative of the Commission, a licensed Producer shall provide a distribution list showing locations where and to whom the Hemp seeds were distributed following inventory at the Commission's facility.

(Source: WOS 2020-015, May 30, 2020, Section XI)

#### **7.1912 SEED ACQUISITION FROM A SOURCE OUTSIDE THE UNITED STATES**

- A.** A person seeking to obtain seeds from an international source shall submit a complete International Seed Request form to the Commission
- B.** Hemp seeds can be imported from Canada if accompanied by either:
1. 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

2. A Federal Seed Analysis Certificate for hemp seeds grown in Canada.
- C. Importation of seeds from countries other than Canada shall be accompanied by a phytosanitary certificate from the exporting country's national plant protection organization to verify the origin of the seed and confirm that no plant pests are detected.
  - D. Hemp seed shipments may be inspected upon arrival at the first port of entry by Customs and Border Protection (CBP) to ensure USDA regulations are met, including certification and freedom from plant pests.
  - E. All licensed Producers intending to plant the requested seed shall be listed on the request form.
  - F. The Commission shall not approve an International Seed Request form unless the licensed Producer affirms in writing that the licensed Producer's planned activities shall not infringe on the intellectual property rights of any person.
  - G. A person submitting an International Seed Request form shall submit to the Commission documentation showing that mature plants grown from that seed variety have a floral material delta-9-THC content of not more than .3% on a dry weight basis.
  - H. A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the Commission's facility, for inventory and distribution.
  - I. Upon request from a representative of the Commission, a licensed producer shall provide a distribution list showing locations where and to whom the imported Hemp seeds were distributed following inventory at the Commission's facility.

(Source: WOS 2020-015, May 30, 2020, Section XII)

#### **7.1913 SEEDS OF WILD, LANDRACE, OR UNKNOWN ORIGIN**

- A. A person shall not acquire or grow Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the Commission.

**B.** The Commission shall not permit Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the Commission first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the Commission or its designee.

**C.** Any licensed Producer found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without advance written permission from the Commission shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

(Source: WOS 2020-015, May 30, 2020, Section XIII)

#### **7.1914 PLANTING REPORTS FOR OUTDOOR PLANTINGS**

**A.** A licensed Producer shall submit to the Commission a complete and current Field Planting Report, within fifteen (15) days after every planting, including replanting, of seeds or propagules in an outdoor location.

**B.** Each Field Planting Report shall identify the:

- 1.** Correct variety name as designated upon approval of the acquisition request or as approved by the Commission.
- 2.** Field location ID as listed in the Producer licensing agreement.
- 3.** Primary intended use of the harvest for each planting.

**C.** A licensed Producer who does not plant Hemp in an approved outdoor site listed in the Producer license agreement shall submit a Field Planting Report, on or before July 31, stating that Hemp has not and shall not be planted at that site.

(Source: WOS 2020-015, May 30, 2020, Section XIV)

#### **7.1915 PLANTING REPORTS FOR INDOOR PLANTINGS**

**A.** A licensed Producer shall submit to the Commission a complete and current

Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor location.

**B.** Each Greenhouse/Indoor Planting Report shall identify the:

1. Correct Hemp variety name as designated in the Domestic Seed/Propagule Request form or International Seed Request form and approved by the Commission.
2. Greenhouse or indoor growing location ID as listed in the Producer licensing agreement.
3. Primary intended use for the harvest of each planting.

**C.** In addition to the initial Greenhouse/Indoor Planting Report, a licensed Producer with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the Commission, such Reports shall be due no later than March 31, June 30, September 30, and December 31.

(Source: WOS 2020-015, May 30, 2020, Section XV)

#### **7.1916 SITE ACCESS FOR REPRESENTATIVES OF THE COMMISSION, USDA AND LAW ENFORCEMENT AGENCIES**

**A.** The Commission shall provide information about approved growing, processing, handling, and storage site locations to Tribal Law Enforcement, USDA, DEA, and other law enforcement agencies whose representatives request registered site information, including legal description and GPS coordinates.

**B.** Licensed Producers shall have no reasonable expectation of privacy with respect to premises where Hemp or other cannabis seeds, plants, or materials are located, and any premises listed in the Producer licensing agreement.

**C.** A licensed Producer, whether present or not, shall permit a representative of the Commission or a law enforcement agency to enter into premises where Hemp or other cannabis seeds, plants, or materials are located and any premises listed in the Producer licensing agreement with or without cause and with or without advanced notice.

(Source: WOS 2020-015, May 30, 2020, Section XVI)

#### **7.1917 PESTICIDE USE**

- A.** A licensed Producer who uses a pesticide on Hemp shall be certified to apply pesticides by the Commission regulations.
- B.** A licensed Producer who is certified to apply pesticides by the Commission shall not use, or be eligible to use pesticides to Hemp in violation of the product label.
- C.** A licensed Producer shall not use any pesticide in violation of the product label.
- D.** A licensed Producer who uses a pesticide on a site where Hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the Hemp.
- E.** The Commission may perform pesticide testing on a random basis or if representatives of the Commission have reason to believe that a pesticide may have been applied to Hemp in violation of the product label.
- F.** Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

(Source: WOS 2020-015, May 30, 2020, Section XVII)

#### **7.1918 RESPONSIBILITY OF A LICENSED GROWER PRIOR TO HARVEST OF HARVEST LOTS; SAMPLING PROCEDURES**

- A.** The Commission may collect samples of any cannabis material prior to harvest at any time.
- B.** Within 15 days prior to the anticipated harvest of cannabis plants, a producer shall have an approved Federal, State, local law enforcement agency or other USDA designated person collect samples from the flower material of such cannabis material for delta-9 tetrahydrocannabinol concentration level testing.



**C.** The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in the Harvest 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 Harvest lot. The Commission shall enact regulations governing sampling procedures that conform to USDA requirements.

**D.** During a scheduled sample collection, the Producer or an authorized representative of the Producer shall be present at the growing site.

**E.** Representatives of the Commission shall be provided with complete and unrestricted access 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 license.

**F.** The licensed Producer shall not harvest the cannabis crop prior to samples being taken, and shall harvest the crop not more than fifteen (15) days following the date of sample collection.

**G.** Samples of hemp plant material from one Harvest lot shall not be commingled with hemp plant material from other Harvest lots.

**H.** Floral materials harvested for phytocannabinoid extraction shall not be moved outside the Territory of the Tribe, nor commingled, nor extracted, until the Commission releases the material in writing.

**I.** A licensed Producer who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by an approved Federal, State, local law enforcement agency or other USDA designated person shall be subject to revocation of his or her license and such other penalties authorized by this Statute and federal law.

(Source: WOS 2020-015, May 30, 2020, Section XVIII)

## **7.1919 THC TESTING**

**A.** Standard testing procedures are specified for samples taken in accordance with the Sampling Procedures for the USDA Hemp Program to measure the delta-9 tetrahydrocannabinol (THC) concentration levels of those samples on a dry weight basis. The THC testing procedures shall be in accordance with USDA guidelines, and shall be adopted by regulation of the Commission.

**B.** The Commission's Regulations must include a procedure for testing that is able to accurately identify whether the sample contains a delta-9 tetrahydrocannabinol content concentration level that exceeds the acceptable hemp THC level. The procedure must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC and the test result measures 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. The total THC concentration level shall be determined and reported on a dry weight basis.

(Source: WOS 2020-015, May 30, 2020, Section XIX)

## **7.1920 PROCEDURS FOR DISPOSAL/DESTRUCTION OF NON-COMPLIANT CANNIBIS PLANTS**

### **A. Non-Compliant Plant Destruction**

**1.** Cannabis plants exceeding the Acceptable Hemp THC Level constitute marijuana, a schedule 1 controlled substance under the Controlled Substances Act (CSA), 21 U.S.C. 801 et seq., and must be disposed of in accordance with the CSA and DEA regulations.

**2.** When a hemp sample tests above the Acceptable Hemp THC Level, the material from the production area which the sample represents must be destroyed by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, Tribal, State, or local law enforcement officer or their designee.

**3.** Producers must notify the Commission and USDA of their intent to dispose of non-conforming plants and verify disposal by submitting required documentation. This can be accomplished by providing the Commission and the USDA with a copy of the

documentation of disposal provided by the reverse distributor and with the “USDA Hemp Plan Producer Disposal Form.”

(Source: WOS 2020-015, May 30, 2020, Section XX)

#### **7.1921 TRANSPORTATION REQUIREMENTS**

**A.** The Licensee or other Person responsible for the transportation of a Hemp Crop grown under this Statute must ensure that the following documentation accompanies the Hemp crop at all times during transport:

- 1.** a copy of the Producer license that corresponds to the Harvest Lot, Location and/or Registered Land Area from which the Hemp originated;
- 2.** a copy of the test results, as set forth in Section XXIV(C), that correspond to the to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp.
- 3.** a copy of the transport manifest that includes all information required to be documented by the Commission or the Tribe.
- 4.** any other documentation that may be required by the Tribe, the Commission, or the USDA.

(Source: WOS 2020-015, May 30, 2020, Section XXI)

#### **7.1922 RESTRICTIONS ON SALE OR TRANSFER**

**A.** A licensed producer shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person without prior approval by the Commission.

**B.** The Commission shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of the Acceptable Hemp THC Level), and other marketable Hemp products to members of the general public, if the marketable Hemp product’s delta-9-THC level does not exceed the Acceptable Hemp THC

Level.

**C.** A licensed Producer selling or transferring, or permitting the sale or transfer, of hemp, shall retain testing data or results for at least three (3) calendar years demonstrating that the delta-9-THC level is not more than the Acceptable Hemp THC Level.

**D.** Licensed Producers shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(Source: WOS 2020-015, May 30, 2020, Section XXII)

#### **7.1923 OTHER PROHIBITED ACTIVITIES**

**A.** A licensed Producer shall not plant or grow Hemp on any site not listed in the Producer licensing agreement.

**B.** A licensed Producer shall not allow unsupervised public access to Harvest Lots, including activities such as a Hemp maze.

**C.** A person shall not ship or transport, or allow to be shipped or transported, live Hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the Commission as a prohibited variety.

**D.** A person shall not ship or transport, or allow to be shipped or transported, any Hemp product with a delta-9-THC concentration in excess of the Acceptable Hemp THC Level.

(Source: WOS 2020-015, May 30, 2020, Section XXIII)

#### **7.1924 OTHER REQUIRED REPORTS FOR PRODUCERS**

**A.** All licensed Producers shall report hemp crop acreage with FSA and shall provide, at a minimum, the following information:

- 1.** Street address, and to the extent practicable, geospatial location for each Harvest lot or greenhouse where hemp will be produced. If an applicant/Producer produces in

more than one location, that information shall be provided for all production sites.

2. Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp
3. License or authorization identifier.

**B.** A licensed Producer shall submit a completed report to the Commission annually detailing the total acreage of hemp planted, harvested, and if applicable, disposed.

**C. Test results report.** Each Producer must ensure that the DEA-registered laboratory that conducts the test of the sample(s) from its Harvest lots reports the test results for all samples tested to USDA. The Test Results report shall contain the information described in this paragraph (2) for each sample tested:

1. Producer's license or authorization identifier.
2. Name of Producer.
3. Business address of Producer.
4. Harvest Lot identification number for the sample.
5. Name and DEA registration number of laboratory.
6. Date of test and report.
7. Identification of a retest.
8. Test result, including the measurement of uncertainty.

**D.** A licensed Producer's failure to submit an accurate and complete report that is required by this Statute, the Commission or the USDA before the deadline established by the Commission or the USDA shall constitute grounds for the Commission to terminate the Producer licensing agreement and deny future applications for licensure.

(Source: WOS 2020-015, May 30, 2020, Section XXIV)

## **7.1925 INFORMATION SUBMITTED TO THE COMMISSION SUBJECT PUBLIC DOCUMENTS STATUTE**

Information and documents generated or obtained by the Commission in connection with the program shall be subject to disclosure pursuant WOS 2010-009 Public Documents Statute, as amended. Personal and confidential business information shall be exempt.

(Source: WOS 2020-015, May 30, 2020, Section XXV)

## **7.1926 IMMEDIATE LICENSE SUSPENSION**

**A.** The Commission shall immediately suspend a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony related to a controlled substance.

**B.** The Commission shall immediately suspend a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having made any false statement to the Commission or its representative or failed to comply with any instruction or order from the Commission, a representative of the Commission, or any federal or tribal law enforcement officer.

(Source: WOS 2020-015, May 30, 2020, Section XXVI)

## **7.1927 NEGLIGENT VIOLATIONS; CORRECTIVE ACTION PLANS**

**A. Negligent Violations.** Negligent Producer violations include, but are not limited to:

1. Failure to provide a legal description of land on which the Producer produces hemp;
2. Failure to obtain a license or other required authorization from the Commission;
3. Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding the Acceptable Hemp THC Level. Hemp producers do not commit a negligent violation under this paragraph if they make reasonable efforts to grow hemp and the

cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration/Acceptable Hemp THC Level of more than 0.5 percent on a dry weight basis.

4. Any other violation of this Statute, except for violations committed with a culpable mental state greater than negligence.

**B. Corrective Action Plans for Negligent Violations.**

1. A person who is found by the Commission to have negligently violated this Statute, or any statute or administrative regulation governing that person's participation in the hemp program shall be subject to a corrective action plan.

2. Corrective action plans issued by the Commission shall include, at a minimum, the following information:

- i. A reasonable date by which the person shall correct his or her violation; and;
- ii. A requirement for periodic reports from the person to the Commission about the person's compliance with the corrective action plan, statutes, and administrative regulations for a period of at least two (2) calendar years from the date of the negligent violation.

3. A hemp Producer that negligently violates any USDA approved State or Tribal Plan or any tribal law or regulation regulating hemp shall not as a result of that violation be subject to any criminal enforcement action by the Federal, State, Tribal or local government.

4. A hemp Producer that negligently violates any USDA approved State or Tribal Plan or any tribal law or regulation regulating hemp 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.

5. The Commission shall conduct an inspection to determine if the corrective action plan has been implemented as submitted.

(Source: WOS 2020-015, May 30, 2020, Section XXVII)

## **7.1928 VIOLATIONS WITH A CULPABLE MENTAL STATE GREATER THAN NEGLIGENCE**

### **A. Mandatory Reports to Tribal and Federal Law Enforcement Agencies for Violations with a Culpable Mental State Greater Than Negligence.**

1. A person who is found by the Commission to have violated this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence shall be subject to the requirements set forth in this section.

2. The Commission shall *immediately* report a person who is found to have violated this Statute or any administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence to the following law enforcement agencies:

i. The Attorney General of the United States; and

ii. The Chief of the Tribal Police Department.

3. **Felonies.** Any person convicted of a felony relating to a controlled substance under State, Tribal or Federal law within the prior ten (10) years shall be ineligible to participate in the Tribe's Hemp Program.

i. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018 whose conviction also occurred before that date.

ii. For Producers that are entities, all Key Participants and persons with an ownership interest in the entity shall be considered to be participating in the plan and subject to the felony restriction for purposes of paragraph (3) of this Section.



- iii. Any person who materially falsifies any information contained in a Producer application to participate in the Tribe's Hemp Program shall be ineligible to participate in the Tribe's Hemp Program.

**4. Civil Penalties.** If the Commission receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision this Statute or the Tribe's hemp Regulations, or the licensing agreement, with a culpable mental state greater than negligence, then the Commission shall bar that person from participating in the Tribe's Hemp Program for a minimum of five (5) years, and may assess a monetary civil penalty in an amount not to exceed \$2,500.

(Source: WOS 2020-015, May 30, 2020, Section XXVIII)

## **7.1929 HEARINGS ON VIOLATIONS**

### **A. Hearings; Consequences.**

1. Upon receiving information that a Producer has violated any USDA approved State or Tribal plan, this Statute, any federal law, or any tribal administrative regulation governing that person's participation in the hemp program, the Commission shall provide reasonable notice to the Producer of the date when a hearing will occur to determine if a violation has occurred.
2. Hearings shall be open to the tribal membership.
3. The Producer shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments that a violation has not occurred.
4. A representative of the Commission shall be allowed an opportunity to present information and arguments regarding the alleged violation.
5. The Producer shall allow an opportunity to present information and arguments.
6. If the Commission finds that it is more likely than not that a Producer negligently violated any USDA approved State or Tribal plan, this Statute any federal law, or any

tribal administrative regulation governing that person's participation in the hemp program, the provisions of Section XXVI of this Statute shall apply.

7. If the Commission determines that it is more likely than not that a Producer violated any USDA approved State or Tribal plan, this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence, then Section XXVII of this Statute shall apply, and the person shall be barred from participation in the Tribe's Hemp Program in any capacity for a minimum period of five (5) years.

8. If the Commission determines that no violation has occurred, the proceedings shall be dismissed.

9. Any person who disagrees with the Commission's decision, after a hearing has been held, may appeal the Commission's decision to Tribal Court.

10. The Court shall uphold the decision of the Commission unless the Court determines that the Commission's decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.

B. A person who is found by the Commission to have negligently violated any USDA approved State or Tribal plan, this Statute, federal law, or any tribal administrative regulation governing that person's participation in the hemp program three (3) times in a five (5) year period shall be ineligible to hold a license for a period of five (5) years beginning on the date of the third violation.

(Source: WOS 2020-015, May 30, 2020, Section XIX)

## **7.1930 COMMISSION REPORTS TO THE USDA**

A. **Hemp Producer Report.** The Commission shall collect, maintain and report to the Secretary relevant, real-time information for each producer licensed or authorized to produce hemp under this Statute as set forth in this Section, and shall submit to USDA, by the first of each month, a report providing the contact information and the status of the license or other authorization issued for each Producer covered under this Statute. If the first of the month falls on a weekend or holiday, the report is due by the first business day following the due date. The

report shall be submitted using a digital format compatible with USDA's information sharing systems, whenever possible. The report shall contain the information described in this Section.

**1. Producer Information.**

- i. For each new Producer who is an individual and is licensed or authorized under this Statute, the report shall include full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
- ii. For each new Producer that is an entity and is licensed or authorized under this Statute, the report shall include full name of the entity, the principal business location address, license or authorization identifier, 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.
- iii. 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.

**2. Location Information.**

- i. A legal description of the land on which the producer will produce hemp in the Territory of the Tribe, including its geospatial location.

**3.** The status and number of each Producer's license or authorization.

**4.** The period covered by the report.

**5.** The information set forth in Section XXIV(B) of this Statute.

**6.** Indication that there were no changes during the current reporting cycle, if applicable.

**B. Report of occurrence of cannabis plants or plant material that do not meet the definition of Hemp.** The Commission shall promptly notify the Administrator by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the

definition of hemp and attach the records demonstrating the appropriate disposal of all of those plants and materials in the Harvest lot from which the representative samples were taken.

**C. Hemp Disposal Report.** If a Producer has produced cannabis exceeding the Acceptable Hemp THC Level, the cannabis must be disposed of in accordance with the Controlled Substances Act and DEA regulations. The Commission shall submit to USDA, by the first of each month, a report notifying USDA of any occurrence of non-conforming plants or plant material and providing a disposal record of those plants and materials. This report would include information regarding name and contact information for each Producer subject to a disposal during the reporting period, and date disposal was completed. If the first of the month fall on a weekend or holiday, reports are due by the first business day following the due date. The report shall contain the information described in this paragraph (7).

1. Name and address of the Producer.
2. Producer license or authorization identifier.
3. Location information, such as Harvest lot identifier, location type, and geospatial location or other location descriptor for the production area subject to disposal.
4. Information on the agent handling the disposal.
5. Disposal completion date.
6. Total acreage.

**D. Annual report.** The Commission shall submit an annual report to USDA. The Report form shall be submitted by December 15 of each year and contain the information described in this paragraph.

1. Total planted acreage.
2. Total harvested acreage.
3. Total acreage disposed.

(Source: WOS 2020-015, May 30, 2020, Section XXX)

#### **7.1931 COMMISSION TO RETAIN INFORMATION ABOUT GROWING LOCATIONS**

**A.** The Commission shall collect and retain for a period of at least three calendar years, the legal description, geospatial location, and Location ID information for every site or location where the Tribe has approved hemp to be Produced.

(Source: WOS 2020-015, May 30, 2020, Section XXXI)

#### **7.1932 REGULATIONS**

Any regulations promulgated or required in accordance with this Statute shall be submitted to Tribal Council for approval.

(Source: WOS 2020-015, May 30, 2020, Section XXXII)

#### **7.1933 SAVINGS CLAUSE**

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws or Statutes of the Little Traverse Bay Bands of Odawa Indians or federal law, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of this Statue remain in full and binding force and effect.

(Source: WOS 2020-015, May 30, 2020, Section XXXIII)

#### **7.1934 EFFECTIVE DATE**

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto, and upon approval by the Secretary of the United States Department of Agriculture or his or her designee.

(Source: WOS 2020-015, May 30, 2020, Section XXXIV)