

# The Chippewa Cree Tribe of the Rocky Boy's Reservation

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96 Clinic Road  
Box Elder, Montana 59521

Resolution No. 20-20

## HEREBY ADOPTING TITLE 23 – THE CHIPPEWA CREE TRIBE HEMP REGULATORY CODE.

**WHEREAS**, the Business Committee is the governing body of the Chippewa Cree Tribe of the Rocky Boy's Federal Indian Reservation, located in Box Elder, Montana, ("Tribe") by the authority of the Constitution and Bylaws of the Tribe approved on November 23, 1935; and

**WHEREAS**, pursuant to the Tribe's inherent sovereignty and Constitution and Bylaws of the Tribe, the Business committee is charged with the duty to promote and protect the health, security, and general welfare of the Tribe; and

**WHEREAS**, the Business Committee has the power and duty to exercise its inherent regulatory authority over HEMP production on the Rocky Boy's Indian Reservation as defined within the Constitution & By-Laws of the Chippewa Cree Tribe [Constitution & By-laws, Article VI --- Powers of the Committee, Section (p)]; and

**WHEREAS**, the Business Committee wishes to adopt Title 23 the Chippewa Cree Tribe HEMP Regulatory Code to set local laws addressing HEMP, including prescribe sampling, inspection, and testing procedures, including standards and procedures for the calibration of laboratory equipment, to ensure that the delta-9 tetrahydrocannabinol concentration of hemp plants cultivated within the Reservation is not more than 0.3 percent on a dry weight basis, according to the public health and economic needs of their unique communities; and

**WHEREAS**, the Business Committee agree to incorporate and codify the *attached* Title 23 the Chippewa Cree Tribe HEMP Regulatory Code with the Chippewa Cree Tribal Law and Order Code; and

**WHEREAS**, the effective date of this adoption shall be March 9, 2020; and

**WHEREAS**, the Business Committee affirms that all resolutions, or parts of the same, are consistent with the provisions with this Resolution, are hereby repealed to the extent of such inconsistency; and

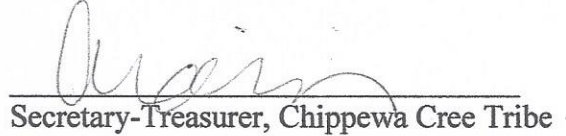
**NOW, THEREFORE, BE IT RESOLVED** that the Business Committee hereby adopts Title 23 the Chippewa Cree Tribe HEMP Regulatory Code.

**FURTHERMORE, BE IT RESOLVED** that the Business Committee hereby authorizes Harlan Baker, Chairman of the Chippewa Cree Tribe to execute all documents as required in the submittal of the Chippewa Cree Tribal HEMP Production Plan to the United States Department of Agriculture.

**CERTIFICATION**

We, the undersigned, as the Chairman and as the Secretary of the Business Committee of the Chippewa Cree Tribe hereby certify that the Business Committee is composed of nine (9) members of whom seven (7) members constituting a quorum were present at the meeting thereof, duly and specially called, noticed, convened and held this 9<sup>th</sup> day of March, 2020, and that the foregoing Resolution was duly adopted at said meeting by the affirmative vote of six (6) members for and zero (0) members against, zero (0) members abstained and that the Resolution has not been rescinded or amended in any way.

  
Chairman, Chippewa Cree Tribe

  
Secretary-Treasurer, Chippewa Cree Tribe

**CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION  
HEMP PROGRAM**

***PROPOSED*** - CHIPPEWA CREE TRIBE HEMP PROGRAM REGULATIONS

Revised May 1, 2010

Chippewa Cree Tribal Natural Resources Department

Authority and Reference: Pursuant to the authority provided by Section 301 of Title 23, *The Chippewa Cree Tribe Regulatory Code*, of the Chippewa Cree Tribal Law & Order Code.

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## CHAPTER 1

### CHIPPEWA CREE TRIBE HEMP PROGRAM REGULATIONS

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

##### **Section 101. Authority to Promulgate Regulations; Administration of Rules.**

(a) As the governing body of the Chippewa Cree Indians of the Rocky Boy's Reservation ("Tribe") established by Article VI, section (1) of the Constitution of the Chippewa Cree Indians of the Rocky Boy's Reservation, the Chippewa Cree Tribal Business Committee adopts the rules of this Chapter as an exercise of its inherent sovereign authority.

(b) The Tribe has charged the Department with the administration of this Chapter and granted the Department authority to promulgate rules necessary to coordinate, implement and enforce the Tribe's hemp program consistent with Title 23, *The Chippewa Cree Tribe Regulatory Code*, of the Chippewa Cree Tribal Law & Order Code and applicable federal law.

(c) The Tribe will exercise primary regulatory authority over the production of hemp on the Reservation under the "Tribal plan" approved by the Secretary in accordance with Section 297B of the Agricultural Marketing Act of 1946 as amended by the Agricultural Improvement Act of 2018 (the "2018 Farm Bill").

(d) As certified by the Tribe in its Tribal plans submitted to USDA, the Tribe will commit the resources necessary to carry out the practices and procedures described in the Tribal plan and effectively administer the rules of this Chapter.

##### **Section 102. Scope of Regulations.**

(a) The rules of this Chapter are for the Department's administration of the cultivation, processing, and distribution of hemp on the Reservation to comply with the 2018 Farm Bill and Title 23, *The Chippewa Cree Tribe Hemp Regulatory Code*, of the Chippewa Cree Tribal Law and Order Codes.

(b) The Department's regulation of the possession, cultivation, processing and distribution of hemp on the Reservation is necessary to protect the health, security and general welfare of the Tribal community.

##### **Section 103. Sovereign Immunity.**

This Chapter will not be construed to abrogate, waive, preclude, or otherwise limit the Tribe's inherent sovereign immunity, including the immunity possessed by its governmental instrumentalities and arms of the Tribe or any immunity-based defenses recognized under the principles of the Tribe's common law or federal common law.

**Section 104. Effective Date.**

This Chapter will be effective upon approval of the Tribe's hemp plan by the Secretary under the 2018 Farm Bill.

**Section 105. Severability.**

If any provision of this Chapter is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this part or the applicability thereof to other persons or circumstances shall not be affected thereby.

**Section 106. Definitions.**

For the purposes of provisions and regulations of this Chapter, unless the context otherwise requires, the following terms will mean:

(1) "Acceptable hemp THC level" means a delta-9 tetrahydrocannabinol content concentration level on a dry weight basis, that, when reported with the laboratory's measurement of uncertainty, produces a distribution or range that includes a result of 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 in 7 U.S.C. §1639o(1) nor the definition of "marihuana," in 21 U.S.C. §802(16).

(2) "Administrative action" includes a denial, revocation or suspension of a license, or an assessed penalty.

(3) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Tribe's hemp program.

(4) "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.

(5) "Code" means the, relating to the production and regulation of hemp on the Reservation, as enacted in Title 23, *The Chippewa Cree Tribe Hemp Regulatory Code*, of the Chippewa Cree Tribal Law and Order Code.

(6) "Contiguous" means all of the lots in or on a location owned or controlled by one owner or tenant, or the same owner and tenant, and no lot is separated from the other lots on the location by different ownership or control, or a public right of way, a navigable waterway, or an area greater than sixty feet.

(7) "Controlled Substance" is defined in 21 U.S.C. § 802(6) of the Controlled Substance Act (codified in 21 U.S.C. § 801-971). The term does not include hemp, as defined in 7 U.S.C. § 1639o, or the tetrahydrocannabinols in hemp.

(8) “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 Chapter, 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 Chapter.

(9) “Corrective action plan” means a plan established by the Department for a licensed hemp producer to correct a negligent violation or non-compliance with the Tribe’s hemp program, this Chapter, or other tribal or federal law.

(10) “Culpable mental state greater than negligence” means to act intentionally, knowingly, or with recklessness.

(11) “Cultivate” means to plant, irrigate, cultivate, or harvest a hemp plant.

(12) “Cultivar” means a variety of hemp.

(13) “Days” means business days unless otherwise specified.

(14) “Decarboxylation” means the removal or elimination of carboxyl group from a molecule or organic compound.

(15) “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.

(16) "Delta-9 tetrahydrocannabinol or THC or Delta-9- THC" means the primary psychoactive component of cannabis. For the purposes of this chapter, the terms delta-9-THC and THC are interchangeable.

(17) “Department” means the Chippewa Cree Tribe’s Natural Resources Department designated by the Tribe as the lead agency responsible for the administration, implementation, and enforcement of the Tribe’s hemp program within the Reservation.

(18) “Drug Enforcement Administration or DEA” means the United States Drug Enforcement Administration.

(19) “Dry weight basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. Dry weight is a basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. The 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.

(20) "Entity" means a corporation, general partnership, joint stock company, association, limited partnership, limited liability partnership, limited liability company, series limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such



organization participating in hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

(21) “Facility” means a location with a legal description and is within the legal control of a person or entity. A facility may consist of multiple fields, greenhouses, storage, and/or lots.

(22) “Farm Service Agency” means an agency of the United States Department of Agriculture that will assist in information collection on land being used for hemp production.

(23) “Field” means an outdoor area of land consisting of one or more lots on which the producer will produce or store hemp.

(24) “Final test” means the last authorized laboratory test conducted from a final sample collected.

(25) “Final sample” means the last authorized sample collected from a lot.

(26) “Gas chromatography or GC” means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. GC relies on heat for separating and analyzing compounds that can be vaporized without decomposition.

(27) “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. This includes GPS coordinates.

(28) “Greenhouse” means any indoor structure consisting of one or more lots on which the producer will produce or store hemp.

(29) “Governing person” means a person serving as the governing body or authority of an entity.

(30) “GPS” means Global Positioning System.

(31) “Handle” means to possess or store a hemp plant on premises owned, operated, or controlled by a license holder for any period of time, or in a vehicle for any period of time other than during the actual transport of the plant from a premises owned, operated or controlled by a license holder to a premises owned, operated or controlled by another license holder. “Handle” also means to harvest or store hemp plants 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.

(32) “Harvest” means to cut, gather, take, or remove all or part of the cannabis plants growing in a lot or lots, for the purpose of disposal, cloning, distribution, processing, storage, sale, or any other use. “Harvest” does not include transplants from one lot to another lot if both lots are within the same license holder’s control, and the plants are transplanted according to the hemp program rules and procedures.

(33) “Hemp” or “industrial hemp,” as defined in 7 U.S.C. § 1639o(1), 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.

(34) “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 adsorbent material to separate and analyze compounds.

(35) “Key participants” means a sole proprietor, a partner/member 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.

(36) “Law enforcement agency” means the Tribe’s enforcement agency or any federal enforcement agency.

(37) “License” means a hemp producer or handler license issued by the Department and assigned a license identifier in a format prescribed by the USDA.

(38) “License holder who transplants” means a license holder who cultivates cannabis plants for the purpose of transplanting all living parts of those same cannabis plants according to the Department’s rules and procedures.

(39) “Lot” means a contiguous area in a facility, field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.

(40) “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 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. "Marihuana" means all cannabis that tests as having a concentration level of THC on a dry weight basis of higher than 0.3 percent.

(41) “Measurement of Uncertainty (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.

(42) “Negligence” means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth under this Chapter.

(43) “Nonconsumable hemp product” means a product that contains hemp, other than a consumable hemp product, including, without limitation, cloth, cordage, fiber, fuel, paint, paper, particleboard, construction materials, and plastics derived from hemp.

(44) “Permit or lot permit” means a document issued by the Department authorizing a license holder to produce or handle a hemp crop within a lot.

(45) “Person” means an individual or entity, unless otherwise indicated.

(46) “Phytocannabinoid” means the Cannabinoid chemical compounds found in the cannabis plant, two of which are Delta- 9 tetrahydrocannabinol (delta-9 THC) and cannabidiol (CBD).

(47) “Postdecarboxylation” 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 post decarboxylation value of THC can be calculated by using a chromatograph technique using heat, and gas chromatography, through which THC-A is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The post decarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC-A intact, and requires a conversion calculation of that THC-A to calculate total potential THC in a given sample. See the definition for decarboxylation.

(48) “Processing” means converting an agricultural commodity into a marketable form.

(49) “Produce” means to cultivate hemp plants on the Reservation.

(50) “Producer” means a person who produces hemp on the Reservation. A producer also means a person who stores the hemp plants they produced on tribal-registered locations.

(51) “Program or hemp program” means the process created by the Tribe and federal statutes and regulations to facilitate the regulation and cultivation of hemp as a crop.

(52) “Reservation,” as defined by Article I of the Constitution of the Chippewa Cree Indians of the Rocky Boy’s Reservation, means “the territory within the Rocky Boy’s Reservation as established by Act of September 7, 1916 (139 Stat. 739), amending the Act of February 11, 1915 (38 Stat. 807), in the State of Montana,” and such lands as have been or may hereafter be acquired and added the Reservation and are “Indian country” as defined by 18 U.S.C. § 1151.

(53) “Reverse distributor” means a person who is registered with the DEA in accordance with 21 C.F.R. §1317.15 to dispose of marijuana.

(54) “Sample” means a composite, representative portion from one variety of hemp plants in a hemp lot, collected prior to harvest in accordance with the Department’s guidelines and procedures.

(55) “Sample collection date” means the date a hemp sample is collected by the Department or an authorized entity. To determine the sample collection date, the Department may take into consideration events of force majeure or unusual circumstances, including situations beyond a reasonable person’s control.

(56) “Secretary” means the Secretary of Agriculture of the United States.

(57) “Specimen” means a cutting taken from a hemp plant.

(58) “Transplant” means to move a fully germinated seedling, mature plant, cutting, or clone from one lot and to replant it in another permanent lot under the control of the same license holder, for later harvest by the same license holder. Transplant also means a plant, cutting, or clone that has been moved from its initial lot of germination or cultivation for the purpose being transplanted.

(59) “Transport manifest” includes a shipping certificate, cargo manifest or transport document developed by the Department or a U.S. authority, authorizing transport of a hemp product within the Reservation, any state, or the United States of America.

(60) "Signing authority" means an individual of a sole proprietorship, or an officer or agent of an entity with written authorization to commit the entity to a binding agreement or verify the contents of a governmental document.

(61) "Storage" means any structure in which the producer or handler will store hemp.

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

(63) "U.S. authority" means the United States of America, USDA or sub-agency thereof, a state, a U.S. territory, or an Indian Nation, or tribal, federal or state law enforcement agency.

**Section 107. Information Submitted to the USDA Farm Service Agency.**

(a) Not more than thirty (30) days after receiving and compiling the following information, the Department will provide to the United States Secretary of Agriculture, or the Secretary's designee, the following information related to tribal-licensed producers:

(1) Full name, residential or principal business address, telephone number, email address, title of key participants, and employer identification number if applicable;

(2) Street address (if any), legal description and geospatial location for each field where hemp will be produced within the Reservation;

(3) Acreage dedicated to the production of hemp, or greenhouse or indoor square footage dedicated to the production of hemp;

(4) The total acreage of hemp planted, or square footage for greenhouses, harvested and if applicable, disposed; and

(5) The status and license identifier of the license holder.

(b) All such information must be submitted to the USDA in a format that is compatible with USDA's information sharing system, as described in **Attachment B, Information and Sharing Procedure**.

(c) The Department will provide real-time updates to USDA for all information that it reports to USDA under this rule, 7 C.F.R. §990.3, or 7 C.F.R. §990.70.

**Section 108. Record Retention.**

The Department will collect and retain, for a period of at least three (3) calendar years information for every license holder, and location where the Department has approved hemp to be produced or handled.

**SUBCHAPTER 2**

**FEES**

**Section 109. Schedule of Licensing and Registration Fees.**

(a) The initial application fee will be at least \$100 for each license application.

(b) The renewal fee will be at least \$100 for each annual license renewal application.

(c) The participation fee will be at least \$100. A participation fee will be assessed for the following, at a minimum for:

(1) each facility;

(2) each lot; and

(3) a processor registration.

(d) The facility modification fee will be at least \$500 for each modified facility.

(e) The Department may establish and collect fees that are reasonably related to cost the processing of license applications.

**Section 110. Testing and Other Fees.**

(a) The license holder must pay testing fees directly to the Department's designated laboratory.

(b) The Department may establish and collect fees that are reasonably related to the costs of regulating cultivation, processing, and distribution of hemp on the Reservation.

**SUBCHAPTER 3**

**LICENSING**

**Section 111. License Application.**

(a) Any person who wishes to produce or handle hemp at any location within the Reservation will submit to the Department annually a completed license application in a form prescribed by the Department.

(b) A person who does not hold a license from the Department will not produce or handle hemp within the Reservation.

(c) An applicant will pay the required annual fee for each application, renewal or modification of a license.

(d) A license will not be issued unless:

(1) the application with all required components and attachments is submitted to the Department;

(2) the application is complete and accurate;

(3) the applicant has completed any mandatory orientation course designated by the Department;

(4) the applicant has paid all required fees, in the amounts established by the Department;

(5) the applicant's criminal history confirms that all key participants covered by the license have not been convicted of a felony, under tribal, state or federal law, relating to a controlled substance within the past ten (10) years, unless the person was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before December 20, 2018;

(6) the application contains no false statements or misrepresentations and the applicant has not previously submitted an application with any false statements or misrepresentations; and

(7) the applicant's hemp license has not been terminated or suspended.

(e) Each applicant will provide the following information for each license application:

(1) full name, address, telephone number, and email address;

(2) if the applicant is submitting an application on behalf of an entity, the full name of the entity, the principal business location address, the full names, titles, addresses, and emails of key participants, the full name, title, and email of the applicant who will have signing authority, and taxpayer ID number;

(3) street address (if any), legal description and geospatial location for each facility where hemp will be cultivated or stored;

(4) maps depicting each location where hemp will be cultivated or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the geospatial location or GPS coordinates;

(5) proof of ownership or control over the location where hemp will be cultivated or stored; and

(6) all other information required by the Department.

(f) The Department will determine the appropriate method for obtaining criminal history reports for the applicant's key participants.

(g) Licenses will not be automatically renewed and must be renewed annually prior to license expiration. Renewal applications are subject to the same terms, information collection requirements, and approval criteria as required for initial applications.

(h) A licensee must submit a license modification if there is any change to the information submitted in the application including, but not limited to, sale of a business, a change in or new location of the facility for the production, handling, or storage of hemp within the Reservation, or a change in the key participants.

(i) The Department will notify each applicant by letter or email of the denial or approval of the person's application.

## **Section 112. Ineligibility for a License.**

(a) A person under the age of eighteen (18) years of age at the time the application is submitted to the Department is ineligible for a license.

(b) A person who has had a hemp license revoked by the Department, USDA, another state, Indian nation, or U.S. territory is ineligible to apply for participation in the Tribe's hemp program for a period of five (5) years from the date of revocation. Upon application following the five-year exclusionary period, the Department may deny an application for any lawful reason, including previous conduct that occurred while licensed by the Department, USDA, another state, Indian nation, or U.S. territory.

(c) A person who is or has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the 10th anniversary of the date of the conviction, hold a License or be a key participant of a business entity that holds a License unless the person was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before December 20, 2018.

(d) A person who falsifies any information contained in a license application to Department, or has previously submitted an application to the Department, USDA, another state, Indian nation, or U.S. territory with any materially false statements or misrepresentations is ineligible for a license.

## **Section 113. Criminal History Report.**

(a) Before cultivation, a criminal history report for each key participant must be submitted along with the license application to the Department. A license application will not be considered complete without all required criminal history reports.

(b) Any changes to key participants must be reported along with criminal history reports for any additional key participants to the Department as an amendment to the license application within 15 calendar days of such change.

(c) All criminal history reports must be dated within 60 calendar days of submission of the license application or submission of an amendment to the license application.

(d) License holders must notify the Department in writing within three calendar days of a key participant receiving a disqualifying conviction described in Section 112(c).

## **Section 114. Appeal from Denial of License Application.**

(a) A license applicant may appeal the denial of a license application. All appeals must be submitted in writing and received by the Department within 30 days of denial. These appeals must explain the reasoning behind the appeal (e.g. why the Department's decision is not justified or improper) and any additional information and documentation the applicant believes the Department should consider when reviewing its decision.

(b) If the Department sustains an applicant's appeal of a licensing denial, the applicant will be issued a license.

(c) If the Department denies an appeal, the applicant's license application will be denied. The applicant may appeal the licensing denial to the Chippewa Cree Tribal Court within 30 days after receipt

of the notice of denial. The license applicant may appeal by petitioning the Tribal Court to set aside the licensing denial and attaching to the petition a copy of the application with all required components and attachments submitted to the Department and the Department's notice of denial. The Tribal Court may summarily order the license to be issued or may take other action that the court considers appropriate. The Tribal Court's final decision may be appealed as in other civil proceedings subject to the Chippewa Cree Tribal Civil Procedures, Title II of the Chippewa Cree Tribal Law and Order Code.

**Section 115. Terms and Conditions for License Holders.**

(a) As an initial and continuing condition of licensure under the Tribe's hemp program, a license holder consents to entry on and inspection of all locations identified in an initial or renewal application, and all land and premises where hemp or other cannabis plants or materials are located. Such consent includes representatives of the Department or appropriate federal law enforcement agency, who may enter such location(s), land, and premise(s) with or without cause, and with or without advance notice.

(b) As an initial and continuing condition of licensure under the Tribe's hemp program, a license holder has a legal duty and obligation to destroy, at the license holder's expense, in accordance with DEA reverse distributor regulations found at 21 C.F.R. §1317.15, and without compensation from the Tribe, USDA or the federal government, any:

- (1) Material found in excess of an acceptable hemp THC level;
- (2) Plants located in an area that is not licensed by the Department; and
- (3) Plants not accounted for in required reporting to the Department.

(c) A license holder will not sell, assign, loan, transfer, pledge or otherwise dispose of, alienate or encumber a license. A license is not transferable upon the death of a license holder, except upon the death of a license holder the independent or dependent executor of the deceased license holder may contract with another license holder to cultivate, harvest, handle, test, and convey the hemp crop existing at the time of the license holder's death.

(d) A license holder will not produce or handle hemp in any location other than the location listed in an initial or renewal application or facility addition or modification request.

(e) A license holder will not interplant hemp with any other crop without express written permission from the Department.

(f) A license holder will comply with restrictions established by the Department limiting the movement of hemp plants and plant parts.

(g) A license holder will ensure that at any time hemp is in transit, whether in intrastate or interstate commerce, a tribal-issued transport manifest will be available for inspection upon the request of a representative of the Department.

(h) Upon request from a representative of the Department, a license holder will immediately produce a copy of his or her license for inspection.

(i) A license holder will notify the Department of any interaction with any U.S. authority, within twenty-four (24) hours following such interaction, by telephone call to the Department and follow-up in writing to the Department within three (3) calendar days of the occurrence.



(j) A license holder will notify the Department of any theft of cannabis materials, whether growing or not.

(k) A license holder will report to the Farm Service Agency, consistent with USDA requirements:

(1) their license identifier, street address (if any), legal description and geospatial location of each lot where hemp is and will be produced; and

(2) the acreage dedicated to the production of hemp, or greenhouse indoor square footage dedicated to the production of hemp, and the total acreage or square footage of hemp planted, harvested and if applicable, disposed.

(l) A link on how to report hemp crop acreage to the Farm Services Agency is provided on the USDA hemp production program website.

(m) Failure to comply with this Chapter, or any procedure or process established by the Department related to the cultivation, handling, processing, testing, storage or transport of hemp, or any request by the Department related to the cultivation, handling, processing, testing, storage or transport of hemp, will constitute grounds for appropriate enforcement action including, without limitation, the assessment of administrative penalties, the requirement to undertake corrective action, the denial of an initial or renewal application, the revocation of a producer's license, the referral to other state and federal agencies for civil or criminal action, or any combination of such remedies by the Department.

#### **Section 116. Restrictions for License Holders.**

(a) A license holder will not produce any cannabis that is not hemp.

(b) A license holder will not produce hemp or other cannabis on a facility unless the facility is identified on an application, renewal application or facility addition or modification request approved by the Department.

(c) Hemp will be physically segregated from other crops unless prior approval is obtained in writing from Department.

(d) An applicant or license holder will not include any real property on an application or facility addition or modification request that is not owned or completely controlled by the applicant or license holder, to produce hemp.

(e) A license holder will not produce or handle hemp or other cannabis on real property owned by or leased from:

(1) a person who is ineligible for licensure under the Tribe's hemp program; or

(2) a person whose application or renewal application for participation in the Tribe's hemp program was denied, or whose license was terminated or revoked.

(f) The legal cultivation of cannabis in a jurisdiction outside the Reservation pursuant to the authorization granted by said jurisdiction will not prevent a person from holding a license issued by the Department.

**Section 117. License Holders who Transplant.**

(a) In order to be eligible to transplant cannabis plants:

(1) a license holder must acquire a lot permit for the initial area of cultivation, and a lot permit for each final transplantation area.

(2) a license holder who transplants must indicate in the lot permit application for the initial area of cultivation, all final transplantation areas, and anticipated dates of transplants.

(3) a license holder who transplants will maintain all recordkeeping required for each lot permit, including submission of all lot reports.

(b) The area where a license holder who transplants initially cultivates cannabis plants and the final transplantation areas will constitute separate lots. The license holder who transplants will pay the associated fee for each lot permit.

(c) In the event the initial area of cultivation is not within the same facility as the final transplantation area, the license holder who transplants must request a transport manifest from the Department before transporting a lot of cannabis plants to a separate facility for transplanting purposes. A transport manifest will be valid for five (5) days from the date of issuance.

(d) A sale or transfer of a lot of cannabis plants from a license holder to another license holder for transplant is considered a harvest and is expressly prohibited until samples are collected and tested for THC in accordance with the procedures described in Subchapters 4 and 5.

**Section 118. Change in Location; Facility Addition or Modification.**

(a) A license holder that wishes to change or alter the land area on which the license holder will produce or handle hemp within the Reservation will, before any alteration or change, submit to the Department an updated license application with the legal description, GPS coordinates, and a map specifying the proposed land change or alteration. Once the Department has received the change to the license application and the Department determines that the requirements of Tribe's hemp program are met, the Department will notify the license holder that it may produce or handle hemp on the changed or altered land area.

(b) A license holder who elects to produce or handle hemp in a facility other than the facility specified by the geospatial location in the applicant's original licensing application will register the new facility by submitting a facility addition or modification request form and obtain written approval from the Department for the new facility.

(c) In the event the geospatial location of a facility previously registered with the Department changes, the license holder must submit a facility addition or modification request form and obtain written approval from the Department for the modified facility.

(d) Once a license holder obtains approval from the Department, the license holder may cultivate, handle, or produce hemp at the newly added or modified facility.

(e) The Department will not process or approve a facility addition or modification request until the Department has received the required forms and fees.

(f) The license holder will report all changes, alterations and modifications approved by the Department under this Section 118 to the Farm Service Agency, consistent with USDA requirements.

**Section 119. Lot Permit.**

(a) A license holder must acquire a lot permit from the Department for each lot where the license holder intends to produce or handle hemp prior to producing or handling hemp. The applicant will submit, at a minimum:

(1) License number, geospatial location of the lot where the hemp variety will be planted, the facility where the lot is located, and anticipated dates of cultivation.

(2) An application that is missing required information will be subject to denial.

(b) A change in the geospatial location of a lot where the hemp variety will be planted will be considered by the Department as a new lot.

**Section 120. Reporting and Recordkeeping.**

(a) License holders will maintain records and reports of all hemp plants acquired, produced, handled or disposed for at least three years.

(b) All records will be maintained and made available for inspection by the Department, U.S. authorities, or their representatives, during reasonable business hours. The following records must be made available:

(1) Records regarding acquisition of hemp seed or cultivars;

(2) Records regarding production of hemp;

(3) Records regarding handling of hemp;

(4) Records regarding disposal of all cannabis plants that, upon testing by the Department, the license holder, or federal law enforcement agency, exceeds the acceptable hemp THC level; and

(5) Records regarding the transport or proposed transport of hemp, including transport manifests.

(c) All reports and records required to be submitted to the Department as part of participation in this program which include confidential data or business information, including but not limited to information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the particular license holder or their customers, will be received by, and at all times kept in the custody and control of, the Department and its employees in accordance with the requirements of applicable law and the Department's information security procedures and policies. Confidential data or business information may be shared with US authorities, or their designees. License holders are responsible for identifying all of the license holder's confidential data or business information, including but not limited to information constituting a trade secret or trade positions, financial conditions, or business operations of the particular license holder or its customers which the license holder deems to be protected from disclosure by the Department. Such identification must be made by separate written

communication to the Department specifically identifying the information sought to be protected by the license holder.

**Section 121. Registration of Processors.**

(a) All persons who intend to process hemp products will register with the Department.

(b) Only a processor registered with the Department will process hemp products within the Reservation.

**SUBCHAPTER 4**

**INSPECTION, SAMPLING AND COLLECTION**

**Section 122. Site Access for Representatives of the Department and Law Enforcement Agencies.**

(a) The Department and applicable tribal and federal law enforcement agencies, along with their representatives and employees, will be provided with complete and unrestricted access to all hemp plants, whether growing or harvested, and all facilities used for the production and storage of all hemp in all locations where hemp is produced or handled.

(b) The Department will conduct annual inspections of, at a minimum, a random sample of license holders to verify hemp is not being produced in violation of tribal or federal law.

(c) During a scheduled sample collection, the producer or an authorized representative of the producer will be present at each lot undergoing sampling and testing.

**Section 123. Sampling and Collection Procedures for Testing Hemp for THC Content.**

**(a) Sampling Timeframe.**

(1) Sampling will occur within 15 days prior to harvest.

(2) Any changes to the harvest date may require additional testing for THC content prior to harvest.

**(b) Sampling Request and Pre-Harvest Report.**

(1) In order to request sampling, license holders will submit a pre-harvest report to the Department at least 30 days before harvest to initiate the sampling process. The pre-harvest report will include:

(A) license holder's license identifier and contact information,

(B) anticipated harvest date,

(D) name of the seed cultivar(s),

(E) physical address, GPS coordinates, general description of location, and acreage of crop, and

(F) name and contact information of the laboratory to conduct the testing for THC.

(2) The Department, or a third-party sampler designated by the Department, will schedule a sampling date to occur within 15 days of the anticipated harvest date.

(3) License holders will notify the Department of any changes to the above information not less than five calendar days prior to the scheduled sampling date.

**(c) Collection of Samples.**

(1) Samples for THC testing will be collected by the Department, or a third-party sampler designated by the Department.

(2) The Department or designated sampler, will verify that the sample collection site corresponds to the registered location using GPS coordinates prior to the collection of samples.

(3) The license holder must be present to observe the collection of samples and allow the Department, or designated sampler, access to all hemp plants within the registered field and all lots and facilities used for cultivation.

**(d) Sample and Volume Composition.**

(1) Each primary sample will include all parts of the plant, including stems, stalks, flowers, leaves, seeds, and buds from:

(A) If two or more lateral branches are present, the terminal 18 inches of the top lateral branch and terminal 18 inches of one lateral branch from the lower one-third of the plant. If any branch is less than 18 inches, the whole branch may be taken.

(B) If two lateral branches are not present, the terminal 18 inches from the terminal bud at the top of the plant. If the plant is less than 18 inches, the whole plant maybe taken.

(2) A composite sample will consist of at least five primary samples from different plants.

(3) A separate composite sample will be taken for:

(A) Each cultivar within each contiguous field, and

(B) Indoor and outdoor growing areas will be treated as separate fields.

(4) When feasible, the Department, or designated sampler, will not collect samples within 10 feet of field edges.

**(d) Handling of Samples.**

(1) All plant material collected for a composite sample will be placed together in a permeable bag, and kept in a manner not conducive to mold growth.

(2) The bag containing the composite sample will be sealed and labeled in a manner to detect tampering and ensure chain of custody. Sample labels will be signed by both the license holder and the Department or designated sampler.

(3) Samples will be labeled with a unique sample identification number and accompanied by the following documentation:

(A) The license holder's proof of licensure,

(B) The pre-harvest report,

(C) Documentation for each cultivar used, and

(D) A sample analysis request form with chain of custody information provided by the testing laboratory.

(4) Samples will be delivered to the testing laboratory within 24 hours of collection. The testing laboratory will document the chain of custody by signing the sample label upon receiving the sample. A copy of the signed chain of custody documentation will be provided by the testing laboratory to the Department or designated sampler.

**Section 124. Lot Report.**

(a) A license holder will provide a lot report to the Department no later than the 30th day after a final sample is collected from a lot, or no later than 180 days from the lot permit issue date, whichever is earlier.

(b) A lot report must contain the following information at a minimum, regarding the particular lot:

(1) License identifier;

(2) Facility ID and lot ID;

(3) Sample(s) ID(s) and test ID(s);

(4) Disposition of cannabis plant materials produced or handled within the lot (e.g. harvest, disposal, transplanting, cloning, distribution, processing, sale, or other use) and any tribal-issued transport manifest;

(5) Total acres or square footage of cannabis plant material produced or handled; and

(6) A certified statement indicating whether or not any living cannabis plants remain in any lot identified in the lot report. In the event any living cannabis plants remain in any lot identified in the lot report, the license holder will further provide a certified statement indicating whether the license holder intends to dispose of or cultivate the remaining, living cannabis plants.

(c) The license holder will report and certify disposal of cannabis plants to the Department in the lot report and include a description of the date and method of disposal.

(d) In the event the license holder cultivates the remaining, living cannabis plants, the license holder will register the location(s) of the remaining, living cannabis plants as new lots and pay the applicable participation fee.

**Section 125. Other Activities.**

(a) A license holder will not harvest a cannabis crop prior to samples being collected.

(b) The license holder will harvest the crop not more than 15 days following the date of sample collection by the Department designated sampler.

(c) Prior to processing, cannabis from harvested lots will not be commingled with cannabis from other harvested lots or other material.

(d) A license holder may not sell or use harvested plants unless a test of the sample(s) for the lot associated with the harvested plants is at or below the acceptable hemp THC level.

**SUBCHAPTER 5**

**TESTING**

**Section 126. Testing Laboratory.**

All testing related to the Tribe's hemp program must be completed by a DEA-registered laboratory.

**Section 127. Standards for Testing.**

Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) in the flower material of the cannabis plant will meet the following standard:

(1) Laboratory quality assurance must ensure the validity and reliability of test results;

(2) Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;

(3) The demonstration of testing validity must ensure consistent, accurate analytical performance; and

(4) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this subchapter.

**Section 128. Methods for Testing.**

(a) Laboratories will use appropriate, validated methods and procedures for all testing activities and evaluate the measurement of uncertainty.

(b) At a minimum, analytical testing of samples for delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods, subject to approval by the Department.

(c) The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test result reflect the total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting these requirements include, but are not limited to, gas or liquid chromatography with detection.

(d) Alternative testing protocols will be considered by the Department if they are comparable and similarly reliable to the baseline mandated by section 297B(a)(2)(ii) of the Agricultural Marketing Act and established under the USDA plan and procedures. Alternative testing protocols must be requested of the Department in writing and submitted by the Department to the USDA for approval as a change to the Tribe's hemp program.

#### **Section 129. Testing Procedures.**

(a) The laboratory will test samples in accordance with the approved testing methods set out in this subchapter.

(b) The laboratory will maintain the chain of custody upon receiving samples.

(c) Each composite sample will be maintained and tested separately for THC content.

(d) All parts of the plant included in the composite sample will be processed and tested as a single sample. No plant parts will be removed during the sample preparation and testing.

(e) All parts of the plant including the composite sample will be dried until the weight of the composite sample remains constant after drying intervals. Drying temperature must not exceed 90 degrees Celsius. Dried composite samples will be milled to a homogenous powder-like consistency and combined before analysis.

(f) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of one percent and does not exceed one percent, the laboratory will retain the sample for a minimum of 30 days from the testing date.

(g) If the laboratory test report indicates a percentage content of THC that exceeds one percent, the laboratory will retain the sample for a minimum of 90 days from the testing date.

#### **Section 130. Notification of Laboratory Test Results.**

(a) Laboratories will provide a laboratory test report to the license holder and the Department within 10 days of the collection of samples.

(1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of one percent, the laboratory will provide the license holder original copies and the Department one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory. The laboratory will retain original copies of the laboratory test report for a minimum of two years from the date of sampling.



(2) If the laboratory test report indicates a percentage content of THC that exceeds three-tenths of one percent, the laboratory will provide both the license holder and the Department one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory.

(b) Laboratories will use a laboratory test report for each composite sample. The laboratory test report will include:

- (1) license identifier,
- (2) unique sample identification number,
- (3) name and contact information of the license holder,
- (4) name of third party sampler,
- (5) dates of the sample collection and testing,
- (6) name of the cultivar tested,
- (7) physical address, GPS coordinates, general description of location, and acreage of field sampled,
- (8) name of approved analytical instrumentation used and the limit of quantification,
- (9) name of person receiving the sample,
- (10) name of person testing the sample, and
- (11) percentage content of THC, a post-decarboxylation value or a calculated value using a conversion formula of delta-9-THC and eighty-seven and seven-tenths (87.7) percent THC-acid, on a dry weight basis, and words "PASSED AS INDUSTRIAL HEMP" or "FAILED AS INDUSTRIAL HEMP" at or near the top of page.

(A) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of one percent, the words "PASSED AS INDUSTRIAL HEMP" will appear.

(B) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of one percent, the words "FAILED AS INDUSTRIAL HEMP" will appear.

**Section 131. Retesting.** If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of one percent and does not exceed one percent, additional samples for retesting will be collected in accordance with the sampling procedures under Section 123 and tested in accordance with the testing methods and procedures outlined in this subchapter.

## SUBCHAPTER 6

### DISPOSAL

#### Section 132. Notice Procedures.

(a) The license holder will submit a completed disposal report to the Department no later than seven (7) days after the license holder receives a final test result exceeding the acceptable hemp THC level.

(b) The Department's receipt of a disposal report triggers a potential field inspection by a tribal inspector.

(c) The Department will inform the license holder no later than seven (7) days after receiving the disposal report of the approved method of disposal.

#### Section 133. Non-compliant Cannabis Plants.

(a) Cannabis plants exceeding the acceptable hemp THC level constitute marijuana, a Schedule I controlled substance, which must be disposed of in accordance with the federal Controlled Substances Act (CSA) in 21 U.S.C. 801 *et. seq.* and DEA regulations in 21 C.F.R. §1317.15, as further described in **Attachment A, Disposal Procedure.**

(b) A laboratory test result showing that the produced cannabis exceeds the acceptable hemp THC level will be conclusive evidence that the lot represented by the composite sample is non-compliant with tribal and federal law. The cannabis on that lot may not be further handled, processed, or enter the stream of commerce, other than for disposal purposes in strict compliance with tribal and federal regulations.

(c) The license holder will pay all costs and fees required for the destruction of non-compliant cannabis plants and will surrender such plants to the DEA-registered reverse distributor for disposal according to the Department's regulations and as required by federal law, without compensation from the Tribe or US authorities.

## SUBCHAPTER 7

### ENFORCEMENT

#### Section 134. Complaints.

(a) Any person with cause to believe that any provision of the Code or this Chapter, related to the Tribe's hemp program, has been violated or not complied with by a license holder, may file a complaint with the Department. The Department will accept either a written or oral complaint but may require the completion and signing of a complaint form before investigating the circumstances or situation giving rise to the complaint.

(b) Upon receipt of an acceptable complaint, the Department will investigate the complaint and make a written report.

(c) The Department's written report will be made available to the public to the extent authorized by tribal law.

(d) The Department will, as soon as possible, notify the person(s) believed to be responsible for the acts, omissions, circumstance(s) and situation(s) described in the complaint, and the owner or lessee of the land where the incident(s) allegedly occurred of the existence of the complaint.

(e) The Department will not find a violation based solely on the uncorroborated statements of an anonymous or unidentified complainant; however, the Department will routinely investigate complaints. The Department will determine the extent of the investigation and resources which are necessary to address any particular complaint.

### **Section 135. Negligent Violations.**

(a) A hemp producer will be subject to enforcement for negligently producing hemp or for negligently producing cannabis (marijuana) which exceeds the acceptable hemp THC level.

(b) Negligent violations will include, but not be limited to:

(1) Failure to provide a legal description or geospatial location of the facility on which the license holder produces or stores hemp;

(2) Failure to obtain a license or other required authorization from the Department; or

(3) Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding the acceptable hemp THC level.

(c) Hemp producers do not commit a negligent violation under this chapter if they make reasonable efforts to grow hemp, and after sampling and testing, the cannabis (marijuana) does not produce a test result showing a delta-9 tetrahydrocannabinol concentration for the lot's sample of more than 0.5 percent on a dry weight basis.

(d) For each negligent violation, the Department will issue a Notice of Violation and require the license holder to submit a corrective action plan. The Department will review the corrective action plan and determine if the corrective action plan meets the requirements of 7 C.F.R. §990, the Code, this Chapter, and the Department's other requirements. If the Department approves the corrective action plan, the license holder will comply with the corrective action plan to cure the negligent violation. If the Department denies the corrective action plan, the license holder's license will be revoked. Corrective action plans will be in place for a minimum of two (2) years from the date of their approval. Corrective action plans will, at a minimum, include:

(1) A reasonable date by which the license holder will correct each negligent violation;

(2) Steps to correct each negligent violation; and

(3) A description of the written procedures to demonstrate compliance with applicable law and the Department's policies and procedures, which may include additional reporting requirements to show such compliance.

(e) A license holder that negligently violates this chapter will not, as a result of that violation, be subject to any tribal, state, local or federal criminal enforcement action.

(f) If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

(g) A license holder that negligently violates the terms of a license or any approved State, Tribal, or USDA Plan three (3) times in a five-year period will have their license revoked and be ineligible to produce hemp for a period of five (5) years, beginning on the date of the third violation.

(h) The Department's authorized representatives and employees will conduct inspections to determine if the corrective action plan has been implemented.

**Section 136. Violations with a Culpable Mental State Greater than Negligence.**

(a) In addition to being subject to license suspension, license revocation, and monetary civil penalty procedures established in this chapter, a person who is found by the Department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence will be subject to the reporting requirements established in this section.

(b) The Department will immediately report a person who is found by the Department to have violated any statute or administrative regulation governing that person's participation in the Tribe's hemp program with a culpable mental state greater than negligence to the following law enforcement agencies:

(1) The Attorney General of the United States;

(2) The Office of the Attorney General for the Chippewa Cree Tribal Government; and

(3) Other law enforcement agencies or authorities with jurisdiction over the producer's acts or omissions that are the subject of the report.

**Section 137. License Suspension.**

(a) The Department may issue a notice of suspension to a license holder if the Department or its representative receives credible evidence establishing that a license holder has:

(1) Engaged in conduct, being either an act or omission, violating a provision of this chapter; or

(2) Failed to comply with a written order from the Department related to negligence as defined in this chapter.

(b) Any license holder whose license has been suspended will not cultivate, handle or remove hemp or cannabis from any location where hemp or cannabis was located at the time when the Department issued its notice of suspension without prior written authorization from the Department.

(c) Any person whose license has been suspended will not produce or handle hemp during the period of suspension.

(d) A license holder whose license has been suspended may appeal that decision in accordance with this subchapter.

(e) A license holder whose license has been suspended and not restored on appeal may have their license restored after a waiting period of one year from the date of the suspension, subject to the terms of a five-year revocation as stated above.

(f) A license holder whose license has been suspended may be required to complete a corrective action plan to fully restore the license.

### **Section 138. License Revocation.**

The Department will immediately revoke a license if a person:

(1) Pleads guilty to, or is convicted of, any felony related to a controlled substance under tribal law, federal law or the law of any state;

(2) Makes a false statement or provides false information or documentation to the Department or its representatives, with a culpable mental state greater than negligence; or

(3) Is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence, or negligently violated this chapter three (3) times in five (5) years.

### **Section 139. Penalties.**

The Code, which provides for the assessment of administrative penalties, applies to a person who violates the Code or this Chapter. Failure to pay an administrative penalty assessed by a final order of the Department is a violation of this Chapter. Failure to pay a final judgment which assesses a civil penalty in which express findings of a violation are made, and which was entered pursuant to the Code or this Chapter, will also constitute a violation of this Chapter.

### **Section 140. Appeals.**

(a) Persons who believe they are adversely affected by the assessment of an administrative action may appeal such decision to the Department.

(b) If the Department sustains the appeal of an administrative action, the person will retain their license and not be subject to the administrative action proposed by the Department in all or part.

(c) If the Department denies the appeal of an administrative action, the license will be revoked or suspended, and other administrative action may be imposed. Such persons may appeal the administrative action to the Chippewa Cree Tribal Court within 30 days after receipt of the notice of denial. The license applicant may appeal by petitioning the Tribal Court to set aside the administrative action or may take other action that the court considers appropriate. The Tribal Court's final decision may be appealed as in other civil proceedings subject to the Chippewa Cree Tribal Civil Procedures, Title II of the Chippewa Cree Tribal Law and Order Code.

## **SUBCHAPTER 8**

### **TRANSPORTATION**

#### **Section 141. Transport Manifest Required.**

(a) A tribal-issued transport manifest will be required for the transportation of hemp outside a facility where the hemp was produced.

(b) Hemp produced outside of the Reservation and transported into the Reservation will be accompanied by valid documentation authorized by another state, Indian Nation, or U.S. territory.

#### **Section 142. Transport Manifests for Test Samples.**

A tribal-issued transport manifest will accompany all test samples collected and transported to a laboratory for testing.

#### **Section 143. Mixed Cargo Prohibited.**

A person transporting hemp plant material within the Reservation will not concurrently transport any cargo that is not hemp material.

## **ATTACHMENTS AND APPENDIX**

### **APPENDIX:**

Attachment A – Disposal Protocol

Attachment B – Information and Sharing Procedure

## **Attachment A – Disposal Protocol**

### **I. Non-Compliant Cannabis Plants.**

A. Cannabis plants or plant materials not meeting the definition of hemp under 7 U.S.C. § 1639o(1), must be disposed of in accordance with the federal Controlled Substances Act (CSA) in 21 U.S.C. 801 *et. seq.* and DEA reverse distributor regulations found at 21 C.F.R. §1317.15.

B. Hemp from lots determined to be non-compliant with the Federally defined THC level for hemp may not be further handled, processed, or enter the stream of commerce.

C. Disposal and/or destruction shall be ordered by the Department of plants or plant materials found to have a delta-9 THC content of more than 0.3 percent on a dry weight basis, as measured from samples collected pursuant to the Tribe's hemp program.

D. The Department may contract with entities to provide disposal services. The cost of disposal and/or destruction shall be the sole responsibility and cost of the hemp producer.

### **II. Tribal Hemp Disposal Report.**

A. The Department will promptly notify the USDA by certified mail or electronically of any occurrence of cannabis plants or plant materials that do not meet the definition of hemp and attach records demonstrating the appropriate disposal of all of the those plants and materials in the lot from which the representative samples were taken.

B. The Department 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 will include information regarding name and contact information for each hemp producer subject to a disposal during the reporting period, and the date when disposal was completed. If the first of the month falls on a weekend or holiday, reports are due by the first business day following the due date. The report will contain the information set forth below:

- (1) Name and address of the producer.
- (2) Producer license identifier.
- (3) Location information, such as lot number, 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.

### **III. Hemp Producer Disposal Form.**

A. Hemp producers must notify the Department and USDA of their intent to dispose of non-conforming plants and verify disposal by submitting required documentation.

B. 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 found at 21 CFR 1317.15. Forms shall be submitted to USDA no later than 30 days after the date of completion of disposal. The report shall contain the information described below:

(1) Name and address of the producer.

(2) Producer's license number.

(3) Geospatial location, or other valid land descriptor, for the production area subject to disposal.

(4) Information on the agent handling the disposal.

(5) Date of completion of disposal.

(6) Signature of the producer.

(7) Disposal agent certification of the completion of the disposal.

All records shall be made available for inspection by USDA inspectors, auditors, or their representatives during reasonable business hours. The following records must be made available:

## **Attachment B – Information and Sharing Procedure**

**I. Tribal Monthly USDA Producer and Disposal Report.** On the first of each month, the Department will submit to the USDA a report, in the format compatible with USDA’s information sharing system, containing the following:

- A. The time period covered by the report.
- B. If applicable, an indication that there were no changes during the time period.
- C. Contact information for each License Holder.
  - (1) if an individual then full name, license identifier, business address, telephone number, and email address (if available);
  - (2) if an entity then full name of entity, principle business location address, employer identification number, license identifier, and full name, title, and phone and email for each key participant;
- D. A legal description of each License Holder’s land, including to the extent practicable, geospatial location;
- E. The acreage, or indoor square footage dedicated to the production of hemp for each License Holder;
- F. The status or status change, and license identifiers, including previously reported information and new information; and
- G. If there have been any disposals that month, the report must also include:
  - (1) Name and address of the License Holder;
  - (2) License Holder’s license identifier;
  - (3) Location information (lot number, location type, and if practicable geospatial location) for the production area subject to disposal;
  - (4) Information on the reverse distributor who handled the disposal;
  - (5) Disposal completion date; and

(6) Total acreage disposed.

**II. Annual Report.** Annually, by December 15 of each year, the Department will report to the USDA, in the format compatible with USDA's information sharing system, the following:

- A. Total planted acreage,
- B. Total harvested acreage, and
- C. Total acreage disposed.

# The Chippewa Cree Tribe of the Rocky Boy's Reservation

Phone: (406) 395-4478 or 4210 - Finance Office  
(406) 395-4282 or 4321 - Business Committee

96 Clinic Road  
Box Elder, Montana 59521

## HEMP PROGRAM CERTIFICATION

### Chippewa Cree Tribe of the Rocky Boy's Reservation in Montana

March 23, 2020

Pursuant to Section 297B(a)(2)(A)(vii) of the Agricultural Improvement Act of 2018, I certify that the Chippewa Cree Tribe of the Rocky Boy's Reservation in Montana has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297B(a)(2) of the Act.

Respectfully,



Harlan Gopher Baker  
Chairman, Chippewa Cree Tribe

Chief Rocky Boy

# Chippewa Cree Tribe Hemp Production Program

## Mailing Address of State or Tribe

Chippewa Cree Tribe  
96 Clinic Road  
Box Elder, Montana 59521

## Date of Issuance

May 27, 2020

This is to certify that the above State or Tribe has the authority to administer a domestic hemp program under the oversight of the USDA Domestic Hemp Production Program.

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Sonia N. Jimenez  
Deputy Administrator

