

**CHAPTER 3. PAWNEE NATION *CANNABIS SATIVA L.*
FARMING REGULATIONS**



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SECTIONS

Section

- 301 – Purpose
- 302 – Definitions
- 303 – Authorization
- 304 – Application
- 305 – Grounds for denial of application
- 306 – License
- 307 – Continuing obligation to provide information
- 308 – Fees
- 309 – Harvest reports
- 310 – Records
- 311 – Inspection and Testing
- 312 – Violations
- 313 – Destruction
- 314 – Enforcement

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CHAPTER 3. Pawnee Nation *Cannabis sativa L.* Farming Regulations

Section 301. Purpose

This Chapter establishes the requirements for licensing, cultivation, and processing of *Cannabis sativa L* containing no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol (THC) concentration on a dry weight basis; commonly referred to as hemp. This Chapter implements the Pawnee Nation *Cannabis sativa L.* Farming Act pursuant to the Pawnee Nation Law and Order Code Title XIV, et seq. The Department of Environmental Conservation and Safety shall provide the licensing, inspections, investigations, testing, and enforcement of the provisions of this Chapter. Other authorized agencies charged with enforcement of the Provisions of this Chapter includes the Pawnee Nation Division of Law Enforcement.

Section 302. Definitions

1. "**Building**" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.
2. "**Contiguous field**" means any contiguous tract of land used for the cultivation of hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of hemp exceeding one quarter of a mile.
3. "**Cultivation**" means the act of planting, growing, or harvesting hemp and any related agricultural activities.
4. "**Cultivation site**" means the contiguous field, building, storage area, or processing area in which one or more varieties of hemp may be lawfully cultivated, stored, or processed.
5. "**Department**" means the Pawnee Nation Department of Environmental Conservation and Safety, its employees, officers, and divisions.
6. "**Growing Area**" means the portion of a contiguous field or building in which a single variety of hemp is planted, grown, and harvested.
7. "**Hemp**" means any part of the plant, *Cannabis sativa L.*, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, whether growing or not, and the seeds thereof.
8. "**Institution of higher education**" means any tribal, public or private college or university located in Oklahoma that is part of the Oklahoma State System of Higher Education.

9. **"Licensee"** means any person, corporation, or institution of higher education possessing a license to participate in the Pawnee Nation Hemp Farming Program.
10. **"License"** means a valid license issued by the Department allowing a licensee to cultivate hemp from low THC seed in Oklahoma.
11. **"Listed low THC seed"** means low THC seed that has been approved by the Department and listed on the Department's Low THC Seed List.
12. **"Low THC seed"** means hemp seed having no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol concentration on a dry-weight basis.
13. **"Processing Area"** means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which hemp is cultivated but shall be considered as part of the cultivation site.
14. **"Storage Area"** means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which hemp is cultivated but shall be considered as part of the cultivation site.
15. **"Subcontractor"** means a person or business entity that has contracted with a licensee and provides supplies, labor, land, or expertise related to the licensee's participation in the Pawnee Nation Hemp Farming Program.

Section 303. Authorization

The Pawnee Nation *Cannabis sativa L.* Farming Regulations is an implementing regulation as authorized by Title XIV, the Pawnee Nation *Cannabis sativa L.* Farming Act and is promulgated in accordance to the Pawnee Nation's Administrative Procedures Act. This Regulation only applies to valid licensed person(s) or entity as authorized by Title XIV. Any person or entity not having the required license and are found in violation of any part of this Regulation shall be penalized in accordance to provisions of Title XIV and any applicable laws of the Pawnee Nation and other applicable jurisdictions.

Section 304. Application

- (a) Any person may apply for a license as authorized under Title XIV (Pawnee Nation *Cannabis sativa L.* Farming Act) (Hemp) by filing an application with the Department for a license:
- (1) Not less than thirty (30) days prior to the planting or cultivation of any hemp crop; or

(2) No later than December 1 if a subsequent license is required to harvest hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) A licensee shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site licensed by the licensee.

(c) All first-time applicants for a license must submit a set of the applicants' and any person listed on the application, including sub-contractors fingerprints, taken by a law enforcement officer. The applicant must submit with the application a completed background check acquired from the Pawnee Nation Attorney General, Oklahoma State Bureau of Investigations and the Federal Bureau of Investigations for processing. The documentation must provide a criminal history including, tribal, statewide and nationwide results. All costs associated with the criminal history check are the responsibility of the applicant. The Department may use the records only to determine if an applicant is eligible to receive a license to produce hemp.

(d) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the licensee responsible for oversight of the operation(s) as authorized under Title XIV (Pawnee Nation *Cannabis sativa L.* Farming Act) and communications with the Department relating to the cultivation of hemp;

(3) If the licensee intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(4) If the licensee intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business office locations;

(5) If the licensee intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the operation(s) as authorized under Title XIV (Pawnee Nation *Cannabis sativa L.* Farming Act) and communications with the Department relating to the cultivation of hemp;

(6) Proof of ownership or valid lease from the Pawnee Nation or Bureau of Indian Affairs for the cultivation site and the following information if the cultivation site is not wholly owned by the licensee:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site; and

(B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of hemp at the cultivation site;

(C) If applicable, a copy of the property lease for the entire duration of the license;

(7) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

(B) The global positioning location coordinates at the approximate center of the contiguous field; and

(C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of hemp corresponding to each growing area;

(8) If the application identifies a building as the cultivation site:

(A) The physical address of the building;

(B) The global positioning location coordinates of the building; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of hemp corresponding to each growing area;

(9) A description of any areas used to store or process plants or plant parts, including but not limited to:

(A) The physical address or location of any storage areas or processing areas;

(B) The global positioning location coordinates of any storage areas or processing areas; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;

(10) A schedule identifying the intended dates of planting and intended dates of harvesting any hemp crop or crops;

(11) A statement of intended use and disposition for the hemp harvested from the cultivation site or any plant parts thereof;

(12) A notarized and sworn statement from an official or employee of the licensee and from an official or employee of any associated subcontractor that only seed as authorized under Title XIV (Pawnee Nation *Cannabis sativa L.* Farming Act) (Hemp) will be planted at the cultivation site; and

(13) Acknowledgement and agreement with the following terms and conditions:

(A) Any information provided by the licensee or subcontractors is subject to public disclosure under the Open Records Act;

(B) Any information provided by the licensee or subcontractors may be released to the Pawnee Nation DECS Inspectors, Pawnee Nation Rangers, Pawnee Nation Law Enforcement, or to any law enforcement agencies within lawful jurisdiction without notice to the licensee or its subcontractors;

(C) The licensee and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow inspection and sampling that the Department deems necessary; and

(D) The licensee and subcontractors shall submit all required reports by the dates specified by the Department.

(d) A subcontractor may submit applications, pay associated fees, and file reports required by the Department on the licensee's behalf if authorized by the licensee to do so. The licensee's approval for the subcontractor to submit applications, pay fees, pay fines, and file reports shall be evidenced by an original, dated, signed, and notarized authorization letter from an official or employee of the licensee identified in subsection (c)(2) of this section submitted with the application for a license. A unique original, dated, signed, and notarized authorization letter shall be required for each new application, for each subsequent application, or renewal of an existing license.

(e) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(f) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

Section 305. Grounds for denial of application

- (a) The Department may consider several factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the licensee, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the licensee, subcontractors, or employees thereof.
- (b) The Department's denial of a license may be contested in the manner provided by this chapter.

Section 306. License

- (a) A separate license shall be required for each cultivation site operated by the licensee.
- (b) All licenses expire on December 31 of the year in which the license was issued. Any hemp that is not harvested on or before December 31 must be declared for inclusion in a subsequent license or destroyed by the licensee.
- (c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the licensee, subcontractor, or officials or employees thereof that is not expressly described in this chapter.
- (d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other licensees or cultivation sites.
- (e) Licenses shall not be assigned or transferred.
- (f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Pawnee Nation Hemp Farming Program and the rules of this chapter shall be sufficient to satisfy the obligations of the licensee to comply with the Pawnee Nation Hemp Farming Act and the rules of this chapter.

Section 307. Continuing obligation to provide information

- (a) Every licensee shall have a continuing obligation to provide current information to the Department. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change

unless otherwise specified herein, including but not limited to, changes in personnel or contact information.

(b) The licensee shall file an amendment to the licensee's application not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of hemp cultivated.

(c) The licensee shall immediately notify the Department of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

Section 308. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license cultivate hemp at a particular cultivation site shall require the payment of a site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.

(c) An hourly inspection rate consisting of Forty-Five Dollars (\$45.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.

(d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

Section 309. Harvest reports

(a) Not less than thirty (30) days prior to harvest, the licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name of the licensee and any associated subcontractors;
- (2) The location of the cultivation site or parts thereof wherever situated;
- (3) A description of each variety of hemp growing at the cultivation site;
- (4) The expected date or dates of harvest for each variety of hemp growing at the cultivation site;
- (5) The expected yield for each variety of hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;
- (6) A description of the intended use and disposition of the hemp product, including but not limited to:
 - (A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of hemp;
 - (B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred;
 - (C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party;
 - (D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and
 - (E) Whether the whole plant or any part thereof will be destroyed after harvest;
- (7) A description of fertilizers, pesticides, or other chemicals applied to each variety of hemp planted at the cultivation site;
- (8) A description of irrigation or water management practices applied to each variety of hemp planted at the cultivation site;
- (9) A description of tillage or ground preparation practices applied to each variety of hemp planted at the cultivation site; and
- (10) A description of the environmental impacts and viability of each variety of hemp planted along with any supporting documentation.

(b) Not less than thirty (30) days following the harvest, the licensee shall supplement the harvest report and declare the actual yield for each variety of hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

Section 310. Records

(a) The licensee shall retain the following records for no less than five (5) years from the date the record is obtained or generated:

- (1) All records relating to information supplied in the application for a license;
- (2) All records relating to the use and disposition of hemp harvested or any plant parts thereof;
- (3) All records relating to the storage or processing of hemp or any plant parts thereof;
- (4) All records relating to the destruction of hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

(b) The licensee shall produce or allow inspection of records at the request of the Department.

(c) The licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

Section 311. Inspection and Testing

(a) The Department shall develop an evidence gathering methodology for the inspection of cultivation sites and the collection of hemp test samples.

(b) The Department may develop laboratory testing methodologies to verify the concentration of delta-9 tetrahydrocannabinol in hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department.

(c) The Department may inspect and take samples from any cultivation site and mature *Cannabis sativa L.* plants located thereon, as follows:

- (1) The Department shall send written notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing.

- (2) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.
- (d) Hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the delta-9 tetrahydrocannabinol concentration of hemp does not exceed 0.3% on dry weight basis.
- (e) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

Section 312. Violations

- (a) The Department may deny, suspend, or revoke a license or fine a licensee upon a finding by the Department that that the licensee has violated the Pawnee Nation Hemp Farming Act and the rules of this chapter.
- (b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the licensee.
- (c) The fine for violating the Pawnee Nation Hemp Farming Act and the rules of this chapter shall not exceed Ten Thousand Dollars (\$10,000) per violation per day. Each day shall be deemed as a separate occurrence.
- (d) Nothing in this chapter shall restrict the licensee from contractually obligating subcontractors to indemnify and hold the licensee harmless from fines issued by the Department for violations occurring at a cultivation site operated by the subcontractor. The licensee may require a bond or surety to guarantee the contractual obligations of the subcontractor for the payment of fines. However, the licensee shall be financially responsible for any fines issued by the Department.
- (e) The following conduct shall be considered a violation of the Pawnee Nation Hemp Farming Act and the rules of this subchapter:
- (1) Providing false, misleading, or incorrect information or otherwise engaging in fraud or deception to secure or retain a license;
 - (2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department;
 - (3) Failure to retain records required by this subchapter or produce such records at the request of the Department;

(4) Interference with the inspection process, including but not limited to, refusal to grant unrestricted access to a cultivation site; impeding the sampling of plants; or refusal or failure to fully cooperate with the Department's inspections;

(5) Failure to timely pay any fee or invoice issued by the Department;

(6) Planting, growing, harvesting, storing, or processing the plant, *Cannabis sativa L.*, in locations other than the cultivation site described in the application for license or amendments thereto;

(7) Refusal or failure to comply with orders of the Department or the rules of this chapter requiring the destruction of hemp, the plant, *Cannabis sativa L.*, with a delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, or any plant parts thereof;

(8) Planting, growing, or harvesting the plant, *Cannabis sativa L.*, with a delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, as follows:

(A) The Department shall calculate an average from the results from all test samples collected from a growing area during an inspection in accordance with the Department's evidence gathering methodology to determine whether a violation occurred. A calculated average of delta-9 tetrahydrocannabinol concentrations exceeding three-tenths of one percent (0.3%) on a dry weight basis derived from test samples collected in the growing area shall be prima facie evidence that a violation occurred. The licensee shall have the burden of proof to contradict such evidence.

(B) If the calculated average of delta-9 tetrahydrocannabinol concentrations in test samples collected from a growing area exceeds three-tenths of one percent (0.3%) but is equal to or less than one percent (1%) on a dry weight basis, the licensee shall destroy all *Cannabis sativa L.* plants and plant parts from the growing area in question. Upon the destruction of the crop, the licensee shall be subject to no additional fines or penalties.

(C) If the calculated average of delta-9 tetrahydrocannabinol concentrations in test samples collected from a growing area exceeds one percent (1%) on a dry weight basis, the licensee shall destroy all plants and plant parts planted, grown, or harvested from the growing area in question. The Department may impose additional fines or penalties including the denial, suspension or revocation of a license by the Department.

(D) Failure to disclose different varieties of the plant, *Cannabis sativa L.*, in a single growing area shall be a violation. A difference of delta-9 tetrahydrocannabinol concentrations exceeding two percent (2%) on a dry weight basis between test samples collected from different sections of the

same growing area shall be prima facie evidence that more than one variety of the plant, *Cannabis sativa L.*, was planted in a single growing area and that a violation occurred. The licensee shall have the burden of proof to contradict such evidence.

Section 313. Destruction

(a) The licensee shall destroy all *Cannabis sativa L.* plants or plant parts if required by the rules of this chapter or by order of the Department.

(b) Incineration is the only acceptable method of destruction unless the Department provides the licensee written authorization for an alternate method of destruction.

(c) The licensee shall document the destruction of *Cannabis sativa L.* plants or plant parts, as follows:

(1) The licensee shall submit a notification of intended destruction to the Department not less than ten days prior to the date that the licensee undertakes the destruction of the *Cannabis sativa L.* plants or plant parts, communicate the time and date of the destruction, and allow Department inspectors to be present during the destruction;

(2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the *Cannabis sativa L.* plants or plant parts. The video recording shall be retained as a record relating to the destruction of hemp for not less than five (5) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was completed;

(3) An officer or employee of the licensee or subcontractor responsible for oversight of the operations authorized under XIV (Pawnee Nation *Cannabis sativa L.* Farming Act) (Hemp) and communications with the Department relating to the cultivation of shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.

(4) Destruction shall be conducted safely and shall not be conducted in a manner inconsistent with the requirements for prescribed burning. The licensee shall delay the destruction required by this chapter or by order of the Department until the risk of starting a wildfire is minimal.

Section 314. Enforcement

(a) Administrative actions brought by the Department seeking the imposition of a penalty for the violation of this Chapter and all contests brought by a licensee or subcontractor shall be considered individual proceedings and shall comply with provisions of Chapter 2 (Hearings), Section 4 (Informal Hearings) of the Pawnee Nation Administrative Procedures Act, and the rules of the Department.

(b) Administrative assessment of penalties shall be made in accordance to Title 14, Section 013 of the Pawnee Nation *Cannabis sativa L.* (Hemp) Farming Act

(c) The Department shall grant subcontractors legal standing to participate in individual proceedings if the subcontractor is authorized to do so by the licensee that is the subject of the individual proceeding.

(d) The Department shall initiate an individual proceeding by serving a notice of violation on the licensee and any associated subcontractor listed in the Department's records for the cultivation site in question. An individual proceeding initiated by the Department shall be required for the Department to suspend or revoke a license or impose a fine. The Department shall not be required to initiate an individual proceeding for the denial of an application for a license or to enforce the rules of this subchapter, including but not limited to, ordering the destruction of *Cannabis sativa L.* plants as specified herein.

(e) A licensee or authorized subcontractor may initiate an individual proceeding contesting the denial of an application, conditions or limitations placed on a license, or order of destruction by filing a petition with the Department. The petition shall state with particularity the factual grounds, arguments, and citation of legal authorities for the contest.

(f) Informal Hearings and associated Individual proceedings shall be heard by the designated Hearing Official. Notifications and hearings shall be "Informal Hearings" and be conducted in accordance to provisions of Chapter 2, Section 4 of the Pawnee Nation Administrative Procedures Act. All evidence and legal arguments shall be offered to the Hearing Official consistent with the regular practices and rules of the Department. The findings and recommendations of the Hearing Official shall be presented to the Department for a final decision. No new evidence or arguments shall be presented to the Department.

(g) Formal hearings shall not be conducted under the provisions of this Chapter.

(h) Enforcement actions not subject to Informal Hearing proceedings shall be in accordance to Title 14, section 012 of the Pawnee Nation *Cannabis sativa L.* (Hemp) Farming Act.