



Pueblo of Picuris Tribal Council

Tribal Council Resolution Number 2020-03

Approving revised Pueblo of Picuris Hemp Production Code

WHEREAS; the Pueblo of Picuris is a federally recognized Indian Tribe governed under a traditional form of government and possessing all of the inherent powers of self-government; and

WHEREAS; the Tribal Council is the duly authorized decision and policy making body for the Pueblo; and

WHEREAS; the 2018 Farm Bill enacted by Congress contains a provision authorizing states and Indian Tribes to develop plans under which persons or entities could be licensed to grow hemp containing less than three-tenths of a percent (.3%) delta-9-tetrahydrocannabinol by dry weight, which plans must be approved by Secretary of Agriculture; and

WHEREAS; the Tribal Council believes that cultivation and marketing of hemp by the Pueblo could be profitable enterprise for the Pueblo, and

WHEREAS; the Tribal Council believes the Pueblo has the resources and personnel to carry out the cultivation and marketing of hemp in accordance with the requirements of the 2018 Farm Bill; and

WHEREAS; by Resolution 2019-01, the Tribal Council adopted a Hemp Production Code, that is submitted to the Department of Agriculture ("USDA") for approval; and

WHEREAS; USDA subsequently issued regulations imposing additional requirements for such plans, and it notified the Pueblo of the need to revise its plan to bring it into compliance with the regulations; and

WHEREAS; the attached revised Pueblo of Picuris Hemp Production Code sets forth a plan for the licensing and regulation of hemp cultivation on Pueblo lands that the Tribal Council believes now meets the requirements of the 2018 Farm Bill and the regulations issued thereunder, and USDA staff have confirmed that it meets those requirements; and

WHEREAS; the Tribal Council finds that it would be in the best interest of the Pueblo to adopt the revised Pueblo of Picuris Hemp Production Code, in the form attached hereto, and to submit it the Secretary of Agriculture for approval in accordance with the 2018 Farm Bill;

NOW THEREFORE, be it resolved by the Tribal Council of the Pueblo of Picuris, as follows:

1. The revised Pueblo of Picuris Hemp Production Code, in the form attached hereto, be and the same is hereby adopted as the law of the Pueblo, and the Governor and the General Counsel of the Pueblo are directed to submit the Code to the Secretary of Agriculture for approval under the provisions of Section 10113 of the Agriculture Improvement Act of 2018, forthwith.
2. The former Pueblo of Picuris Hemp Production Code, adopted by Resolution 2019-01, be the same is hereby repealed and declared null and void, and the attached Code is substituted for it.
3. The Tribal Council finds and declares the Pueblo possesses the resources and personnel necessary to fulfill the requirements of the revised Code, and of the Section 10113 of the Agriculture Improvement Act of 2018 and the regulations issued thereunder.

CERTIFICATION

I, the undersigned, as Governor of the Pueblo of Picuris, hereby certify that the Pueblo of Picuris Tribal Council, at a duly called meeting convened on the 11 day of February, 2020, at the Pueblo of Picuris, at which a quorum was present, approved the foregoing Resolution, and that 7 voted for, 1 were absent, and 0 were opposed.



Craig Quanchello, Governor

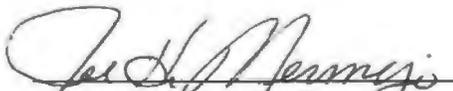


Wayne Yazza, Jr., Lt. Governor



Daniel Sam, Tribal Sheriff

Manuel Archuleta, First War Captain



Joe H. Mermejo, First Fiscale



Celestino Yazza, Second War Captain

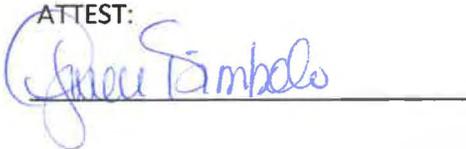


John Salazar, Second Fiscale



Bobby Richardson, Third War Chief

ATTEST:



PICURIS PUEBLO HEMP PRODUCTION CODE

Section 1. Title

This Code shall be known as the Picuris Pueblo Hemp Production Code.

Section 2. Findings and Purpose

A. The Tribal Council finds that farming and marketing of hemp, as defined and allowed by Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. 115-334 (Dec. 20, 2018) (the “2018 Farm Act”), would be a highly beneficial use of the Pueblo’s available farmlands, and the Pueblo’s water rights appurtenant to those lands, and could be a valuable source of revenues to the Pueblo.

B. The Tribal Council further finds that in order to be successful, the farming and marketing of hemp must be carried out in strict conformance with the requirements of the 2018 Farm Act, and it is the purpose of this Code to establish a regulatory framework for the farming and marketing of hemp on Pueblo land that meets those requirements, and that will assure that the farming of hemp on Pueblo lands, and the marketing of the product, will be entirely in accordance with federal law and will serve the best interests and welfare of the Pueblo and its members.

C. The Tribal Council further finds and declares that the Pueblo possesses the resources and personnel necessary to fulfill the requirements of this Code and Section 10113 of the 2018 Farm Act.

Section 3. Definitions

A. “Acceptable hemp THC level” means, when a sample is tested by a certified laboratory, that the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less THC.

B. “Code” means this Picuris Pueblo Hemp Production Code.

C. “Governor” means the Governor of the Pueblo of Picuris.

D. “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol (“delta-9-THC”) concentration of not more than 0.3 percent on a dry weight basis.

E. “Key Participant” means a person who has a direct or indirect financial interest in an entity producing hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer. This does not include other management positions like farm, field, or shift managers.

F. “Person” means any natural person, corporation, partnership, or other legal entity.

G. “Propagule” means a plant or plant part that can be used to grow a new plant.

H. “Publicly marketable hemp product” means a hemp product that does not include any living hemp plant, viable seeds, leaf material, floral material, or delta-9-THC content above three-tenths of a percent, but does include hemp stalks, fiber, nonviable roots or seeds, seed oils or hemp extracts.

I. “Pueblo” means the Pueblo of Picuris, a federally recognized Indian tribe.

J. “Pueblo lands” means all lands within the Picuris Pueblo Grant in Taos County, New Mexico, that are owned by the Pueblo, and any other lands that are held by the United States in trust for the Pueblo.

K. “Secretary” means the Secretary of the United States Department of Agriculture.

L. “Tribal Council” means the Tribal Council of the Pueblo.

Section 4. Hemp Production Limited

No person shall grow, process, produce in any fashion, market or handle hemp or any other variety of cannabis on Pueblo lands, unless such person is licensed under the provisions of this Code.

Section 5. Hemp Production License Application

A. An application for a license to grow, process, produce, market or handle hemp on Pueblo lands (“Hemp Application”) must be completed in compliance with this section of the Code, and submitted to the office of the Governor. Submission of a Hemp Application shall not confer any rights to grow, process, produce, market or handle hemp unless and until the application is approved by the Tribal Council and the license is issued by the Governor.

B. A Hemp Application may be submitted only by an entity that is wholly owned by the Pueblo. No Hemp Application will be accepted from a natural person or from any entity not wholly owned by the Pueblo.

C. The Hemp Application must contain the following information:

1. The full legal name of the entity and its address on Pueblo lands, and any e-mail address or other electronic address by which the applicant can be contacted.

2. A copy of the entity’s corporate charter.

3. The names and addresses of each member of the entity’s board of directors or other governing body, and of each officer of the entity or other person who would have supervisory authority with respect to the production of hemp.

4. A survey and legal description of the parcel or parcels of Pueblo land on which the hemp is proposed to be grown, consistent with the requirements of this Code, and evidence that the applicant has the right to utilize such parcel or parcels of land for its purposes.

5. A description of the proposed growing operation, including (but not limited to) the proposed source of seeds or propagules; the number of plants to be cultivated; the number of persons to be employed (and the names and home addresses of any such persons already employed for this purpose, or to whom employment commitments have been made); the name and home address of the person or persons who will oversee or supervise the operation, and the specific duties of each such person; a statement of the previous farming experience of such person or persons; plans for testing of plants to insure compliance with this Code; a marketing plan for the hemp to be grown; and any other information relative to the proposed operation.

D. The completed Hemp Application shall be submitted to the office of the Governor, who will present it to the Tribal Council. The Governor shall confirm that the parcel or parcels of land identified in the Hemp Application as the locations on which hemp will be grown is in fact Pueblo land. The Governor’s office shall also cause a criminal background check to be performed on every person identified under clause (C)(3) of this section, to determine whether any such person has, in the previous ten-year period, been convicted of a

felony related to a controlled substance in any state or federal jurisdiction. If such background check reveals that any such person has been so convicted in such period, the Hemp Application shall be returned to the applicant, with directions that the person or persons found to have controlled substance felony convictions must be removed from their positions, and must not have any involvement whatever in the growing, processing, handling or marketing of hemp on Pueblo lands.

E. The Tribal Council may require a representative of the applicant to appear and answer questions about the proposed operation, or request additional information. The Tribal Council will take the final action to approve or disapprove a Hemp Application, which decision shall be final and non-reviewable. Upon approval of a Hemp Application, and the applicant's payment of a licensing fee of \$1000.00 to the Pueblo, the Governor shall issue a Hemp Production License to the applicant.

F. Immediately upon approval of a Hemp Application, the Governor shall cause the name, address and any other contact information for the applicant, and the legal description of the parcel or parcels of Pueblo land on which the applicant is licensed to grow hemp, to be sent to the Secretary, together with information confirming that the applicant's license to grow hemp on Pueblo lands has been approved by the Tribal Council. In the event there is any change in any such information, the Governor shall promptly transmit the new information to the Secretary.

G. The Pueblo shall maintain and report to the Secretary the status of licensed producers (and any changes) and license or authorization numbers of licensed hemp growers.

H. The Pueblo shall collect, maintain, and provide to the Secretary a hemp producer report containing the contact and real-time information for each hemp producer licensed or authorized to produce hemp on Pueblo lands. The Governor shall cause the hemp producer report to be submitted to USDA not more than thirty (30) days after the date on which the information is received. The hemp producer report shall include:

1. Contact information, including:
 - a) For each new producer who is an individual and is licensed or authorized this Code, the full name of the individual, license or authorization identifier, business address, telephone number, and email address (if available).
 - b) For each new producer that is an entity and is licensed or authorized under this Code, the full name of the entity, the principal business location address, license or authorization identifier, and the full name, title, and email address (if available) of each employee for whom the entity is required to submit a criminal history record report.
 - c) For each licensed hemp grower that was included in a previous report and whose reported information has changed, the previously reported information.
2. A legal description of the land on which the licensed hemp grower will produce hemp, including, to the extent practicable, its geospatial location.
3. The status and number of the producer's license or authorization.
4. The period covered by the report.
5. Indication that there were no changes during the current reporting cycle, if applicable.

I. The Pueblo shall submit an annual report to USDA. The report form shall be

submitted by December 15 of each year and contain:

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

Section 6. Restrictions and Conditions Applicable to Licensed Hemp Growers

- A. A licensed hemp grower may not grow any cannabis that is not hemp.
- B. A licensed hemp grower may not grow hemp on any lands not identified in the approved Hemp Application, unless the grower applies to the Governor for an amendment to add such lands and obtains approval of such amendment.
- C. Hemp shall not be grown inside or adjacent to any structure that is used for residential or school purposes, nor shall any hemp floral or leaf material be handled or stored in any such structure.
- D. Hemp plants shall be physically segregated from other crops.
- E. Hemp shall not be grown within 1000 feet of any public recreational area.
- F. A licensed hemp grower shall allow authorized representatives of the Governor to inspect the growing operation and all appurtenant facilities during normal business hours, and to collect samples of hemp plants being grown on the premises, provided that such inspections and sampling shall not interfere with the operation.
- G. In the event any test of plants being grown by the licensed hemp grower shows that any of them has in excess of three-tenths of one percent by dry weight of delta-9-THC, or that hemp is being grown on land not identified in the approved Hemp Application, all such plants shall be forfeited to the Pueblo and destroyed, in a manner to be determined by the Governor, in compliance with federal law and this Code.
- H. A licensed hemp grower shall adopt and implement written procedures for periodic scouting of fields adjacent to the fields on which hemp is being grown, to seize any volunteer cannabis plants and to destroy all such plants.
- I. A licensed hemp grower may acquire seeds or propagules only from a source that is licensed in accordance with the laws of the jurisdiction in which the source is located, and shall register the name, address, and license information of such source with the office of the Governor.
- J. A licensed hemp grower who uses pesticides on its hemp plants shall only use pesticides that are in compliance with the laws of New Mexico and the United States, and only in accordance with the instructions on the product label.
- K. Unprocessed hemp grown on Pueblo lands may only be sold to a person that is licensed in accordance with the laws of the jurisdiction in which such person is located.
- L. Unprocessed hemp grown on Pueblo lands may not be transported outside of Pueblo lands except pursuant to a sale of such material to a person eligible to purchase such material under the provisions of this Code.
- M. A licensed hemp grower shall report hemp crop acreage to the Farm Services Administration and shall provide, at minimum, the following information:
 1. Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced. If an applicant operates in more than one location, that information shall be provided for all production sites.
 2. Acreage dedicated to the production of hemp, or greenhouse or indoor

square footage dedicated to the production of hemp.

3. License or authorization identifier.
4. Total acreage of hemp planted, harvested, and, if applicable, disposed.

Section 7. Sampling; Testing; Destruction of Non-Compliant Plants.

A. Sampling

1. Within fifteen (15) days prior to the anticipated harvest of cannabis plants, a producer licensed under this Code shall have an approved Federal, State, local, or Tribal law enforcement agency or other Pueblo-designated person collect samples from the flower material from such cannabis plants for delta-9 tetrahydrocannabinol concentration level testing.

2. The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95 percent to demonstrate that no more than one percent (1%) of the plants in the lot would exceed the acceptable hemp THC level. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the lot.

3. During a scheduled sample collection, the licensed hemp grower or an authorized representative of the licensed hemp grower shall be present at the growing site.

4. Representatives of the sampling agency shall be provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants, and all locations listed in the hemp production license.

5. A licensed hemp grower shall not harvest any portion of the cannabis crop prior to samples being taken.

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

B. Testing

1. A licensed hemp grower shall contract with a DEA-registered, qualified testing laboratory to undertake random sampling of the hemp being grown by the licensee on each parcel of Pueblo land where hemp is being grown, no less often than annually, and testing of such samples for delta-9-THC, using post-decarboxylation or some other similarly reliable method of testing.

2. Each licensed hemp grower must ensure that the DEA-registered laboratory that conducts the test of the sample(s) from its lots reports the test results for all samples tested to USDA. The test results report shall contain:

- a) Producer's license or authorization identifier.
- b) Name of licensed hemp grower.
- c) Business address of licensed hemp grower.
- d) Lot identification number for the sample.
- e) Name and DEA registration number of laboratory.
- f) Date of test and report.
- g) Identification of a retest.
- h) Test result.

3. The results of each such test shall be provided to the office of the Governor and to the licensed hemp grower by the laboratory, promptly upon completion of the

tests.

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

5. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis. Additionally, measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

6. In the event any such testing reveals that the material tested contains greater than three-tenths of a percent (.03%) of delta-9-THC, the laboratory shall obtain additional samples of the hemp from the same parcel or parcels of Pueblo land from which the non-compliant samples were taken, and shall test such samples. If such tests also reveal greater than three-tenths of a percent (.03%) of delta-9-THC, the Governor shall direct that the entire crop from the parcel or parcels of land from which such samples were taken be removed and destroyed.

7. Any test of a representative sample resulting in higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this Code. Lots tested and not certified by the DEA-registered laboratory at or below the acceptable hemp THC level may not be further handled, processed, or enter the stream of commerce and the licensed hemp grower shall ensure the lot is disposed of in compliance with Section(7)(C).

C. Non-Compliant Plants:

1. If a licensed hemp grower 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

2. The Governor shall cause the Secretary to be promptly notified by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp in this part and attach the records demonstrating the test results and appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.

3. The Governor shall cause a disposal report to be submitted to USDA by the first of each month and not more than thirty (30) days after the date on which the information was received. The disposal report shall notify USDA of any occurrence of non-conforming plants or plant material and provide a disposal record of those plants and materials. This report shall include information regarding name and contact information for each licensed hemp grower subject to a disposal during the reporting period, and date disposal was completed. If the first of the month fall on a weekend or holiday, reports are due by the first business day following the due date. The disposal report shall contain:

- a) Name and address of the licensed hemp grower.
- b) Producer license or authorization identifier.
- c) Location information, such as lot number, location type, and geospatial location or other location descriptor for the production area subject to disposal.

- d) Information on the agent handling the disposal.
- e) Disposal completion date.
- f) Total acreage.

D. The Pueblo shall conduct annual inspections of a random sample of licensed hemp growers to verify hemp is not being produced in violation of this Code. The annual inspection may include a review of records and documentation, and may include site visits to farms, fields, greenhouses, storage facilities, or other locations affiliated with the licensed hemp grower's hemp operation. The inspection may include the current crop year, as well as any previous crop year(s). The inspection may be performed remotely or in person.

Section 8. Enforcement.

A. A hemp producer shall be subject to enforcement for negligent violations. Negligent violations shall include:

1. Failure to provide a legal description of land on which the producer produces hemp;
2. Failure to obtain a license or other required authorization from the Pueblo before engaging in production; or
3. Production of cannabis with a delta-9 tetrahydrocannabinol concentration exceeding the acceptable hemp THC level. Hemp producers do not commit a negligent violation under this paragraph (b)(3) if they make reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 0.5 percent on a dry weight basis.

B. For each negligent violation, the Pueblo will issue a Notice of Violation and require a corrective action plan for the licensed hemp grower. The licensed hemp grower shall comply with the corrective action plan to cure the negligent violation. Corrective action plans will be in place for a minimum of two (2) years from the date of their approval. Each corrective action plan shall include, at minimum, the following terms:

1. A reasonable date by which the licensed hemp grower shall correct the negligent violation.
2. A requirement that the licensed hemp grower shall periodically report to the Pueblo on its compliance with the Tribal plan for a period of not less than the next 2 years from the date of the negligent violation.
3. A licensed hemp grower that negligently violates this Code shall not as a result of that violation be subject to any criminal enforcement action by the Federal, State, Tribal, or local government.
4. A licensed hemp grower that, notwithstanding its compliance with this section, is found to have produced hemp in violation of the provisions of this Code, or to have committed any other violations of this Code, on three separate occasions in any five-year period, shall lose its license to grow hemp, for a minimum period of five years or until the Tribal Council approves a new license, whichever comes later.
5. A licensed hemp grower that negligently violates the hemp license three times in a 5-year period shall have the license revoked and be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.
6. The Pueblo shall conduct inspections to determine if the corrective action plan has been implemented as submitted.

C. Culpable mental state greater than negligence:

1. If the Pueblo determines that a licensed hemp grower has violated the plan with a culpable mental state greater than negligence, the Pueblo shall immediately report the licensed hemp grower to: (i) the U.S. Attorney General; and (ii) the chief law enforcement officer of the Pueblo.

2. Paragraphs (B) and (C) of this section shall not apply to culpable violations.

D. Felonies:

1. A person with a State or Federal felony conviction relating to a controlled substance is subject to a 10- year ineligibility restriction on participating under this Code and producing hemp under this Code from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the Agricultural Act of 2014, Public Law 113-79 (2014 Farm Bill), before December 20, 2018, and whose conviction also occurred before that date.

2. Any licensed hemp grower growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) before October 31, 2019 shall be exempted from paragraph (D)(1) of this Section 8.

3. For licensed hemp growers that are entities, each key participant of the licensed hemp grower shall be considered to be participating under this Code and subject to the felony conviction restriction for purposes of this section.

E. False statements. Any person who materially falsifies any information contained in an application to participate in the Pueblo's hemp program shall be ineligible to participate in the such program.