

## TRIBAL AGRICULTURAL HEMP CODE

### SEC. I. PREAMBLE

The Rosebud Sioux Tribe, the Sicangu Oyate, exercises its inherent sovereign authority to regulate and tax commerce, including but not limited to the growth, cultivation, processing, marketing, production, and sale, of hemp within its Tribal Territory by any and all Persons. The Sicangu Oyate has established relationships with other Oyate, including the Wahpe Oyate, otherwise known as the plant/leaf nations, and through this code reaffirms this relationship so that all Oyate may benefit in order to make a better world for future generations.

### SEC. II. DEFINITIONS.

- (1) **ACCEPTABLE HEMP THC LEVEL.** The term ‘acceptable hemp THC level’ means when a laboratory tests a sample, it must report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and with a measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of this Chapter is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta- 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 range from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level for the purpose of plan compliance. This definition of ‘acceptable hemp THC level’ affects neither the statutory definition of hemp, 7 U.S.C. 1639o(1), in the 2018 Farm Bill nor the definition of “‘marihuana,” 21 U.S.C. 802(16), in the Controlled Substances Act.
- (2) **AMS.** The term ‘AMS’ means the U.S. Department of Agriculture (“USDA”) Agricultural Marketing Service.
- (3) **ADMINISTRATOR.** The term ‘Administrator’ means the administrator of AMS.
- (4) **CULPABLE MENTAL STATE GREATER THAN NEGLIGENCE.** The term ‘Culpable Mental State Greater Than Negligence’ means to act intentionally, knowingly, willfully, recklessly, or with criminal negligence.
- (5) **HEMP COMMISSION.** The term ‘Hemp Commission’ means the tribal agency, commission, or department responsible for the oversight and implementation of this hemp code as assigned by the ‘tribal government.’
- (6) **HEMP.** The term ‘hemp’ means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis within the Acceptable Hemp THC Level.
- (7) **HEMP PRODUCER.** Any person growing or cultivating hemp, hemp seeds, or hemp propagules.
- (8) **HEMP PROCESSOR.** Any person processing, manufacturing, extracting, or producing hemp-based products.
- (9) **HEMP SELLER.** Any person marketing, brokering, distributing, or selling, wholesale or retail, hemp or hemp-based products.

- (10) INDIAN TRIBE or TRIBE. The Rosebud Sioux Tribe.
- (11) KEY PARTICIPANT. ‘Key Participant’ means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation, limited liability company or any other corporate entity. 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.
- (12) LOT. The term “lot” refers to a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. In addition, “lot” is a common term in agriculture that refers to the batch or contiguous, homogeneous whole of a product being sold to a single buyer at a single time. Under the terms of this part, “lot” is to be defined by the producer in terms of farm location, field acreage, and variety (i.e., cultivar) and to be reported as such to the FSA.
- (13) PERSON/S. All natural persons and all legal entities, including but not limited to corporations, foundations, organizations, business trusts, estates, limited liability companies, partnerships, limited liability partnerships, associations, or any other form of business entity (regardless of jurisdiction of formation) as well as tribal, federal, state, local or international governmental entities. Rosebud Sioux Tribal entities include all agencies, offices, enterprises, corporations, and political subdivisions, such as Community governments of the Rosebud Sioux Tribe.
- (14) PERSONAL USE. Purchase, possession, growth, and use of hemp and hemp products as the end consumer, and that are not intended for or used for commercial purposes, sale, or resale.
- (15) PROCESSING. The term ‘processing’ means converting an agricultural commodity into a marketable form.
- (16) PROPAGULE. The term ‘propagule’ means a plant or plant part that can be utilized to grow a new plant.
- (17) HEMP PRODUCTS. Includes all products made with any aspect of the hemp plant, including but not limited to CBD, nutritional seeds, building materials, etc.
- (18) STATE. The term ‘State’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.
- (19) TRIBAL TERRITORY OR TERRITORY OF THE ROSEBUD SIOUX TRIBE/SICANGU OYATE. For purposes of this code, ‘Tribal Territory’ includes all Territory in Article I of the Rosebud Sioux Tribal Constitution.
- (20) TRIBAL GOVERNMENT. The term ‘Tribal government’ means the governing body of the Rosebud Sioux Tribe.

**SEC. III. HEMP COMMISSION ESTABLISHED**

- (1) GENERAL. There is hereby established a governmental oversight entity for the hemp code and industry, the Rosebud Sioux Tribe Hemp Commission, which shall be comprised of five (5) Commissioners and shall responsible for the oversight and implementation of hemp and this code.
- (2) QUALIFICATIONS. Members of the Hemp Commission shall be not less than eighteen (“18”) years of age, at least two Commissioners shall be enrolled citizens of the Rosebud Sioux Tribe, and they shall be chosen on the basis of ability, moral character, and experience. Candidates shall have experience or abilities in agricultural, hemp, regulation, and/or business.

- (3) APPOINTMENT. Members of the Hemp Commission shall be confirmed by majority vote of the Rosebud Sioux Tribal Council.
- (4) REMOVAL. Members of the Hemp Commission shall only be removed for cause, and Council should err on the side of non-removal for the stability of the Hemp Commission and the Hemp Industry.
- (5) TERM. Each member of the Hemp Commission shall serve a term of three (3) years, with no term limits imposed.
- (6) MEETINGS. The Hemp Commission meet at least once per quarter. They shall pass by-laws upon the first meeting, and shall select one of its members as Chairperson, who shall serve in such capacity for the succeeding year. Special meetings of the Hemp Commission may be called by the Chairperson as frequently as the efficient administration and oversight of the hemp industry requires. Written notice of the time and place of each meeting shall be given to each member of the Hemp Commission. All commission meetings shall be held within the original boundaries of the Rosebud Reservation. Two members of the Hemp Commission shall constitute a quorum.
- (7) COMPENSATION. Each member shall receive reasonable compensation for their services.
- (8) POWERS. This Hemp Commission shall have the following duties and powers:
  - a) To perform any of the duties and functions specified in this Code.
  - b) To rent, lease, or equip any building or land necessary to carry out the provisions of this code.
  - c) To retain counsel.
  - d) To hire staff, which specifically includes a Hemp Agricultural Program Director to administer the program and policies of the Hemp Commission. The Hemp Commission may outsource this staff as needed, including to other offices, agencies, and arms of the Rosebud Sioux Tribe, including but not limited to the Rosebud Economic Development Corporation (REDCO).
  - e) To appoint vendors, clerks, or, agents required for carrying out the provisions of this Code; to dismiss such employees for cause; and to designate their title, duties, and powers.
  - f) The Hemp Commission shall institute a policy of tribal preference for all contracts and employees.
  - g) To accept and process applications and to grant licenses provided for by this Code.
  - h) To set schedule for fees and fines, and to collect such fees and fines. Proceeds of which revert to the Hemp Commission.
  - i) The Hemp Commission shall have such other powers and duties necessary and proper to carry out the provisions of this Code.
  - j) The Hemp Commission shall adopt and promulgate such rules, regulations, fees and fines that are necessary to carry out the provisions of this Code.

#### **SEC. IV. LICENSE REQUIREMENTS**

- (1) GENERAL. Any “Hemp Producer” operating within the Rosebud Sioux Tribe’s Tribal Territory must obtain a tribal business license and Hemp Producer license under this code. The Hemp Commission may also, at is discretion, require hemp licenses of Hemp Processors and Hemp Sellers within, or emanating from, the Rosebud Sioux Tribe’s Tribal Territory. The Hemp Commission may tailor hemp licenses for Hemp Processors and Hemp Sellers as

needed. However, each Hemp Producer license application must at a minimum include the following:

- a) Consent to inspection and tetrahydrocannabinol testing;
  - b) Consent to comply with any reporting requirements (See SEC. VII. RECORDS AND REPORTS);
  - c) Location of the grow or business, including the legal land description and a map identifying the location, which shall, to the extent practicable, include geospatial location;
  - d) Consent to an annual criminal background check;
  - e) Affirmation that all hemp and hemp products will have a delta-9 tetrahydrocannabinol concentration of not more than the Acceptable Hemp THC Level on a dry weight basis; and
  - f) Consent to the potential disposal, forfeiture, and/or destruction of any hemp or hemp product with a with a delta-9 tetrahydrocannabinol concentration of more than the Acceptable Hemp THC Level on a dry weight basis pursuant to the procedures outlined in this code and subsequent regulations
  - g) Consent to the jurisdiction of the Rosebud Sioux Tribe.
- (2) BACKGROUND CHECK. The Hemp Commission shall determine the required process for the criminal background checks.
  - (3) LICENSE NUMBER. Each approved producer shall be assigned a license identifier, consistent with the format prescribed by the USDA.
  - (4) NO LICENSE REQUIRED. No license is required by any Person within the Rosebud Sioux Tribe's Tribal Territory personal possession/personal use of hemp or hemp products.
  - (5) FEES. The Hemp Commission may charge reasonable fees, including but not limited to an application processing fee and the cost for criminal background checks.
  - (6) FINES. The Hemp Commission may set and collect a schedule of civil fines for non-compliance with this code. All fines collected shall revert back to the Hemp Commission not to the general fund.
  - (7) INELIGIBLE FOR A LICENSE.
    - a) Any Person under the age of 18;
    - b) Any Person convicted of a felony, or Class A Offense, relating to a controlled substance under tribal, state or federal law, within ten (10) years of the date of such felony conviction, shall be ineligible to obtain a hemp license;
    - c) Any Person who materially falsifies any information contained in their license application; and
    - d) Any Person who materially fails to comply with the license requirements.
  - (8) LICENSEE RESTRICTIONS.
    - a) Licensees cannot have primary employees, partners, or Key Participants, within their hemp production who are convicted of a felony, or Class A Offense, relating to a controlled substance, within the past ten (10) years from the date of the felony conviction, under tribal, state or federal law. The Hemp Commission shall determine which partners and employees fall under this restriction.
    - b) When an applicant is a business entity, the applicant shall submit and the Hemp Commission shall review a criminal history report for each Key Participant, partner, and employee in the business that the Hemp Commission deems to be necessary in accordance

with Section IV(8)a) above. The Hemp Commission may determine the appropriate method for obtaining the criminal history report for such applicants under this Chapter.

- c) Licensees shall not allow unsupervised access to hemp plots and hemp processing or manufacturing facilities.
- (9) **FELONY EXCEPTIONS.** The felony restrictions set forth in Section IV(7)b) and Section IV(8)a) shall not apply to any person or producer who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date.
- (10) **TAXATION.** The Rosebud Sioux Tribal Tax Commission may impose and enforce a tax upon the Selling of hemp and hemp products, but not on the Production, Processing of hemp or hemp products.
- (11) **NO GRANDFATHER CLAUSE.** Regardless of whether a Person was already Producing, Processing, or Selling Hemp or Hemp Products prior to the passage of this Code, they must now apply for a license if required.
- (12) **NON-TRANSFERABILITY.** Licenses cannot be assigned or transferred to another Person.
- (13) **AGENTS.** Licensee is responsible for all individuals that will engage with Hemp and Hemp Products on their behalf.
- (14) **ACCESS.** License holders must have the legal authority to grant access to the land or premises for inspection and sampling.
- (15) **TRIBAL COMMUNITIES AND COMMUNITY CORPORATIONS.** The existence of an officer or employee ineligible for a Hemp Producer License, under Subsection (7), on a tribal community or tribal corporation board or staff does not make the entire tribal community or tribal corporation ineligible. If an officer or employee of a tribal community or tribal corporation license applicant is ineligible under Subsection (7), that officer or employee cannot participate in the hemp business and is prohibited from participating in any votes, decisions, or implementation of activities related to the hemp license and hemp production.

## **SEC. V. SPECIAL LICENSE.**

In order to encourage the development of the hemp industry for the Oyate, immediately upon approval of this code by the U.S. Department of Agriculture, the Rosebud Sioux Tribe Economic Development Corporation (REDCO), the wholly owned economic development arm of the Rosebud Sioux Tribe, shall be automatically be granted a license for Hemp Production for three (3) years, renewable upon application to the Hemp Commission. REDCO shall work to develop hemp as a viable industry for the Tribe and the Oyate, including exploration and promotion of total vertical integration, and shall issue an annual report to the Rosebud Sioux Tribe on the best practices in the industry and in our area. The REDCO shall designate with the Hemp Commission who shall be the Key Participants in REDCO, subject to the background check, with regard to the license.

## **SEC. VI. VIOLATIONS.**

- (1) **NEGLIGENT LICENSE VIOLATIONS.** A hemp licensee has negligently violated the tribal license requirements if they negligently (each a “Negligent Violation”):
  - a) Fail to provide a legal description of land on which the producer produces hemp or the location of the hemp related business, or, provide an inaccurate or false location;

- b) Fail to obtain a license or other required authorization from the tribe; or
  - c) Produce Cannabis sativa L. with a delta-9 tetrahydrocannabinol concentration of more than the Acceptable Hemp THC Level.
    - i) A producer is not assumed negligent if they produce Cannabis sativa L. which returns a test of a delta-9 tetrahydrocannabinol concentration of between 0.3 and 0.5 percent on a dry weight basis using the USDA accepted measurements of uncertainty described in 7 C.F.R. § 990.1, and they exercised reasonable efforts to grow hemp at or below 0.3 percent.
- (2) **CORRECTIVE ACTION PLAN.** To correct a Negligent Violation, the licensee shall be subject to a corrective action plan, which shall include:
- a) a reasonable date to correct the Negligent Violation;
  - b) a requirement to report periodically to the Hemp Commission regarding their ongoing compliance for a period of 2 calendar years from the date of the Negligent Violation;
  - c) a requirement that the licensee shall be subject to an inspection to determine if the corrective action plan has been implemented as submitted
  - d) a provision incorporating the requirements of Section VI(3) below;
  - e) a provision that the Hemp Producer shall pay any civil fines issued by the Hemp Commission as a result of the violations; and
  - f) a provision that states that a Hemp Producer who negligently violates this Chapter shall not be subject to any criminal enforcement action by a federal, state, or tribal government.
- (3) **REPEAT NEGLIGENT VIOLATIONS.** A Hemp Producer that negligently violates this section three (3) times in a five (5) year period shall be ineligible for a tribal hemp license for a period of 5 years beginning on the date of the third violation.
- (4) **POTENTIAL CRIMINAL LIABILITY.** If the Hemp Commission determines a hemp licensee has violated this statute with a Culpable Mental State Greater Than Negligence, the above provisions are inapplicable, and the Hemp Commission shall immediately report the licensee to tribal law enforcement and the United States Attorney General.

## **SEC. VII. RECORDS AND REPORTS**

- (1) **TRIBAL MONTHLY USDA PRODUCER & DISPOSAL REPORT.** On the first of each month, the Hemp Commission 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 Hemp Producer:
    - i) if an individual then full name, license identifier, business address, telephone number, and email address;
    - ii) 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 employee and investor who must submit a criminal history, including Key Participants;
  - d) a legal description of each Producer's land, including to the extent practicable, geospatial location;
  - e) the acreage, or indoor square footage for each Producer;
  - f) the license number for each producer;

- g) the status or status change, and number of each Producer's licensee, including previously reported information and new information;
  - h) if there have been any disposals that month, the report must also include:
    - i) Name and address of the Hemp Producer;
    - ii) Hemp Producer License number;
    - iii) Location information (such as lot number, location type, and if practicable geospatial location);
    - iv) Information on the agent who handled the disposal;
    - v) Disposal completion date; and
    - vi) Total acreage disposed.
- (2) **TRIBAL ANNUAL USDA ACREAGE REPORT.** Annually, by December 15 of each year, the Hemp Commission shall report, in the format compatible with USDA's information sharing system, to the USDA the following:
- a) Total planted acreage;
  - b) Total harvested acreage; and
  - c) Total acreage disposed.
- (3) **PRODUCER REPORT TO FSA.** In addition to providing it to the Hemp Commission, each Producer is responsible for submitting the following information to the FSA:
- a) Street address, and to the extent practicable geospatial location, for each hemp lot or indoor growing facility where such producer grows hemp;
  - b) Acreage, or indoor square footage dedicated to hemp production; and
  - c) Tribal hemp production license number.
- (4) **REPORTS.** The Hemp Commission may at its discretion require annual harvest reports of licensees which may include information on: seed variety, acreage harvested, field location, agricultural techniques, production and sales, end use of product, total acreage of hemp planted, harvested, and disposed, and any other report information deemed necessary by the Hemp Commission to which the licensee has consented in the license application. All proprietary and individually identifiable information shall be confidential. To the extent required, the Hemp Commission will report and share any such information to AMS, including pursuant to 7 C.F.R. § 990.3(a)(9).
- (5) **RETENTION.** The Hemp Commission shall maintain information on hemp licenses, license applications, and other relevant information regarding land on which hemp is produced, including a legal description of the land, for a period of not less than 3 calendar years.
- (6) **PRIVACY PROTECTIONS.** Except as required by USDA reporting and to law enforcement, the Hemp Commission shall protect the privacy of the following collected information: proprietary information, all personally identifiable information including name; physical address; drivers' licenses; social security numbers; GPS coordinates; telephone numbers; email address. Such information shall be shielded by the Hemp Commission to the maximum extent permitted by law.

## **SEC. VIII. INSPECTIONS, SAMPLING, AND TESTING.**

- (1) **INSPECTIONS.** The Hemp Commission shall conduct annual regular, random inspections to verify that Hemp Producer licensees' hemp crop is not produced in violation of this Chapter. The Hemp Commission inspections may be without prior notice. The Hemp Commission may develop similar testing guidelines for other license holders. The provisions set forth in Section

VI will apply to any Hemp Producer licensees found to be in violation of this Chapter following any such inspection.

- (2) SAMPLING. For purposes of sampling policies and procedures, the Hemp Commission shall adopt and utilize the USDA Sampling Guidelines for Hemp Growing Facilities, as may be amended from time to time. Sampling of hemp must also meet the following requirements:
  - a) A Producer cannot harvest their hemp until a sample has been taken in accordance with the following:
    - i) The sample must be taken within fifteen (15) days of anticipated harvest.
    - ii) The sample can only be taken by an approved law enforcement agency or other USDA designated person.
    - iii) The tribal producer, or an authorized representative, must be present at the growing site when the samples are collected.
    - iv) Representatives of the sampling agency must 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 producer license.
  - b) The method of sampling must come from the flower materials of the cannabis plant, and the sampling process must:
    - i) ensure that a representative sample is collected that represents a homogenous composition of the lot, and
    - ii) be sufficient at a confidence level of 95% that no more than 1% of plants would exceed the Acceptable Hemp THC Level.
- (3) TESTING. The Hemp Commission is responsible for implementing these policies and procedures for effectively testing the delta-9 tetrahydrocannabinol concentration levels of hemp produced on or sold from the territory, using post-decarboxylation or other similarly reliable methods. For purposes of testing policies and procedures, the Hemp Commission shall adopt and utilize the USDA Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol Concentration in Hemp, as may be amended from time to time. The Hemp Commission may choose to contract for such collection and testing services. As USDA and accepted scientific standards will evolve, testing procedures may too. Testing of hemp must also meet the following requirements:
  - a) Hemp Grower shall not remove a Lot that has not been sampled and tested for compliance in accordance with this Hemp Commission procedures.
  - b) Throughout the sampling and testing process, hemp plant materials from one lot cannot be commingled with hemp plant material from other lots.
  - c) Compliance and safety testing for Hemp and Hemp Products required by these rules shall be conducted by DEA-registered laboratories or another accreditation standard approved by the USDA. Any such lab shall:
    - i) comply with 7 CFR 990.3(a)(3)(iii);
    - ii) use a validated testing methodology that uses postdecarboxylation or other similarly reliable method;
    - iii) use a procedure for testing that is able to accurately identify whether a sample contains delta-9 THC content levels above the Acceptable Hemp THC Level;



- iv) use a method to consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THC-A) in hemp into THC;
  - v) use a measurement of total available THC derived from the sum of the THC and THC-A content (and may use gas or liquid chromatography with detection);
  - d) In determining the results of the testing, the THC concentration level must be determined and reported on a dry weight basis.
  - e) Any test of a representative sample that exceeds the Acceptable Hemp THC Level shall be conclusive evidence that the lot represented by the sample is marijuana, which must be disposed in accordance with Section VIII(4).
  - f) Samples that exceed the Acceptable Hemp THC Level, or which are not certified by a DEA-registered laboratory at or below the Acceptable Hemp THC Level cannot be further handled, processed, or enter commerce, and the producer must dispose of the Lot, in accordance with the Controlled Substance Act and DEA regulations.
  - g) Each Hemp Producer will work with the DEA-registered laboratory that conducts the test of sample(s) of hemp crop collected in accordance with this Section from the Hemp Producer's lot(s) to ensure that the test results for all such sample(s) include information required under 7 C.F.R. § 990.70(d) and are reported to USDA.
- (4) DISPOSAL. The Hemp Commission, in consultation with tribal law enforcement, shall ensure the proper disposal of hemp and hemp products which test with a delta-9 tetrahydrocannabinol concentration greater than the Acceptable Hemp THC Level. Cannabis that test higher than the Acceptable Hemp THC Level shall constitute marijuana, a schedule I controlled substance under the Controlled Substances Act (21 U.S.C. §§ 801 et seq.)(the "CSA") and must be disposed of by the Hemp Producer in compliance with this Section and subsequent regulations, including disposal regulations under the CSA, and DEA regulations, including 21 C.F.R. §§ 1317.15, 1317.90, and 1317.95.
- a) Hemp Producer licensees shall have fourteen (14) calendar days from the date of notification of test results higher than the Acceptable Hemp THC Level to notify the Hemp Commission in writing.
  - b) All plants and materials produced at the same Lot as the hemp that tests higher than the Acceptable Hemp THC Level shall be promptly disposed of by the Hemp Producer.
  - c) The plant and materials must be collected by and disposed of a person authorized under the CSA to handle marijuana, such as a duly authorized tribal law enforcement officer. The plant and materials must be disposed of in accordance with the CSA and DEA regulations.
  - d) The Hemp Producer shall provide any and all evidence requested to verify disposal and complete a Disposal Record.
  - e) The Hemp Commission must promptly:
    - i) notify the AMS Administrator of any occurrence of plant material that did not meet definition of hemp under the regulations; and
    - ii) attach disposal records demonstrating the appropriate disposal of all of those plants and materials in the lot from which the representative samples were taken.
  - f) The Hemp Commission is authorized to set a schedule of civil fines for non-compliance.

## **SEC. IX. NO STATE JURISDICTION.**

Per the Sicangu Oyate's inherent sovereignty, Tribal Constitution, Treaties, the United States Constitution, case law, and U.S.C. 25 §261-264, no state or other tribe has civil, regulatory,

taxation or other authority within the Rosebud Sioux Tribe's Tribal Territory, or over the Tribe's trade and commerce, including the Tribe's hemp industry.

#### **SEC. X. TRANSPORTATION.**

(1) The Licensee or other Person responsible for the transportation of hemp, or hemp products, must ensure the following documentation accompanies the hemp at all times during transport:

- a. A certified copy of the Tribal license, and the Bill of Lading, that corresponds to the land or processing from which the hemp or hemp product originated;
- b. A copy of the certified Batch testing results that corresponds to the land or processing from which the Hemp or Hemp Product originated;
- c. Destination information;
- d. Any other documentation that may be required by the Hemp Commission.

(2) The 2018 Farm Bill, P.L. 115-334, Sec. 10112, and accompanying committee report language, explicitly prohibits state and tribal governments from interfering with the interstate transportation of hemp and hemp products. The Rosebud Sioux Tribe shall provide reciprocity to other state and tribal licenses and testing certifications for hemp and hemp products being transported through the Rosebud Indian Reservation. Any Person who possesses hemp or hemp products which are not simply being transported through Tribal Territory and which will remain within the Tribal Territory are subject to the requirements in this code.

#### **SEC. XI. TRIBAL LAND LEASES.**

Any land under the ownership or control, trust, fee or otherwise, of the Rosebud Sioux Tribe, or any of its offices, subsidiaries or enterprises, ("Tribal Land"), which is leased for Hemp Production may only be leased to Rosebud Sioux Tribal members, enterprises, offices, agencies, and political subdivisions, such as Communities. Any such Tribal Land leased for Hemp Production may not then be subleased. Any economic benefit emanating from Tribal Land Hemp Production leases must primarily benefit the Tribal lease holder.

#### **SEC. XII. AMENDMENT**

This Code may be amended by the Rosebud Sioux Tribe pursuant to the process outlined in RST Tribal Law & Order Code, Title 4, Civil Procedure, Chapter 3, Amendments to the Law and Order Code.

#### **SEC. XIII. SEVERABILITY**

Any provision of this Code or part thereof or its application to any person in any circumstance declared invalid, shall be severed from the Code and the remaining provisions or applications of this Code shall remain in effect and enforceable.

#### **SEC. XIV. SOVEREIGN IMMUNITY**

Nothing in this Code can or shall be construed as a waiver of the sovereign immunity of the Rosebud Sioux Tribe nor any entity, subsidiary, or enterprise that enjoys the sovereign immunity of the Rosebud Sioux Tribe and/or the Rosebud Sioux Tribal Council. Nor does this code create any liabilities for the Tribe or create any private right of actions.

**CERTIFICATION**

**Rosebud Sioux Tribe  
Hemp Program Certification**

**By Rosebud Sioux Tribal President, Rodney Bordeaux**

Pursuant to Section 297(a)(2)(A)(vii) of the Agriculture Improvement Act of 2018 and 7 C.F.R. 990.3(a)(8), I certify that the Rosebud Sioux Tribe has the resources and personnel necessary to carry out each of the practices and procedures identified in Section 297(a)(2) of the Act, 7 CFR 990.3(a)(1)-(7), and this Code. The Rosebud Sioux Tribe and its economic arm will establish, fund, and staff the appropriate and necessary offices and positions. The Rosebud Sioux Tribe is forwarding the USDA a copy of its Hemp Code and resolution establishing its Hemp Commission. In addition, Tribal law allows the Tribe to raise fees as needed to pay for the costs incurred.

Date: February 10, 2020

Respectfully,



Rodney Bordeaux  
President,  
Rosebud Sioux Tribe