

HEMP REGULATIONS

Established by the Santa Rosa Band Tribal Council

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INTRODUCTION

In the Agricultural Improvement Act of 2018 (“Farm Bill”), the federal government removed hemp from the list of controlled substances and directed the United States Department of Agriculture to make hemp growers eligible to participate in federal farm programs on an equal footing with other crops. The Farm Bill laid the groundwork for full-scale commercialization of hemp.

The Farm Bill also recognized that tribes, not the federal government, can and should assume primary regulatory authority over hemp production within their jurisdictions. To assume that regulatory authority, the tribe must submit a hemp plan to the USDA under which the tribe monitors and regulates the production of hemp within its jurisdiction. The hemp plan must contain:

- (1) A practice to maintain relevant information regarding land on which hemp is produced in the territory of the Indian tribe, including a legal description of the land, for a period of not less than three calendar years;
- (2) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the territory of the Indian tribe;
- (3) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of the Farm Bill and products derived from those plants;
- (4) A procedure to comply with enforcement as set forth in the Farm Bill;
- (5) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of the Farm Bill;
- (6) A procedure for submitting the information required by the Farm Bill, as applicable, to the USDA not more than 30 days after the date on which the information is received; and
- (7) A certification that the Indian tribe has the resources and personnel to carry out the practices and procedures described above.

To satisfy these requirements for a plan to assume primary regulatory authority over the production of hemp throughout its territory regardless of the extent of its inherent regulatory authority, the Santa Rosa Band of Cahuilla Indians hereby adopts the following hemp regulations. The Tribe certifies that it has the resources and personnel to carry out the practices and procedures described herein.

ARTICLE I

Definitions

For purposes of these Regulations, the following terms have the following meanings:

(a) “Acceptable hemp THC level” means when a laboratory tests a sample, it must report the total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of the Tribe’s hemp plan is when the application of the measurement of uncertainty to the reported total 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 total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/-0.06%, the measured total 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” is not meant to affect either the statutory definition of hemp in the 2018 Farm Bill (codified at 7 U.S.C. § 1639o(1)) or the definition of “marihuana” in the Controlled Substances Act (codified at 21 U.S.C. § 802(16)).

(b) “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 total delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

(c) “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 these Regulations, 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 these Regulations.

(d) “Corrective action plan” means a plan established by the Tribe for a licensed hemp producer to correct a negligent violation or non-compliance with a hemp production plan and these Regulations.

(e) "Cultivating or cultivation" means planting, growing, producing, and harvesting a plant or crop for market.

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

(g) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid (“THC-A”) 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-A.

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

(i) “Delta-9 tetrahydrocannabinol” or “THC” means the primary psychoactive component of cannabis. For these Regulations, “delta-9 THC” and “THC” are interchangeable. “Delta-9 THC” and “THC” do not include delta-8 THC or delta-10 THC.

(j) “Dry weight basis” means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

(k) “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.

(l) “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.

(m) “Handle or handling” 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 or handling” also includes the disposal of cannabis plants that are not hemp for purposes of chemical analysis and disposal of such plants.

(n) “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 total delta-9 THC concentration of not more than 0.3 percent on a dry weight basis. “Hemp” includes hemp products.

(o) “Key participants” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes individuals 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. This definition also does not include a member of the leadership of a Tribal government who is acting in his or her capacity as a Tribal leader except when that member exercises executive managerial control over hemp production.

(p) “Licensee” means an individual or business entity possessing a license issued by the Tribe to cultivate, handle, produce, or process hemp.

(q) “Measurement of Uncertainty or MU” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

(r) “Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with these Regulations.

(s) “Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

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

(u) “Plot or lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

(v) “Post-decarboxylation” means in the context of testing methodologies for THC concentration levels in hemp a value determined after the process of decarboxylation that determines the potential total delta-9 THC 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, 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 liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: $[\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}]$ which calculates the potential total THC in a given sample.

(w) “Process or processing” means converting an agricultural commodity into a marketable form.

(x) “Produce or producing” means to grow hemp plants for market, or for cultivation for market, in the United States.

(y) “Producer” means an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm or would have shared had the crop been produced. A “producer” includes a grower of hybrid seed.

(z) “Prohibited variety” means a variety or strain of hemp excluded from the Reservation.

(aa) “Remediation” means the process of rendering non-compliant cannabis, compliant. Remediation can occur by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass like material. Both remediation methods require re-testing for compliance.

(bb) “Reverse distributor” means a person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

(cc) “Reservation” means all those lands within the exterior boundaries of the Santa Rosa Indian Reservation located in Riverside County, California as well as any other lands held in trust for the Tribe.

(dd) “Tribal Council” means the Tribal Council of the Santa Rosa Band of Cahuilla Indians as set forth in its Governing Document.

(ee) “Tribe” means the Santa Rosa Band of Cahuilla Indians, a federally recognized Indian tribe.

(ff) “USDA” means the United States Department of Agriculture.

(gg) "Variety" means a subdivision of a species that is uniform, in the sense that the variations in essential and distinctive characteristics are describable, stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties, and distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

ARTICLE II

Testing and Sampling

2.1 Annual Inspections

The Tribe shall conduct at least one inspection per 10 licenses each year of, at a minimum, a random sample of hemp producers to verify that hemp is not produced in violation of the Farm Bill or these Regulations. The Tribe shall have unrestricted access to all lots, plots, and other cultivation sites to conduct random inspections and testing of the hemp or hemp products as set forth below to determine THC levels. The inspections may be conducted without notice.

2.2 Selecting Samples for Testing

(a) The total delta-9-THC content for hemp produced pursuant to these Regulations shall not exceed the acceptable hemp THC level. The Tribe will test all hemp produced by any licensee for THC compliance. The Tribe will inspect and sample 100% of all hemp lots to be harvested.

(b) The method used for sampling from the flower material of the cannabis plant must be sufficient at a confidence level of 95% that no more than 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. Samples of hemp plant material from one plot shall not be commingled with hemp plant material from other lots.

2.3 Collection of Samples

(a) The hemp to be selected for sampling shall be determined by a tribal inspector of the Tribe. The Tribe shall collect, handle, and retain samples from each plot in accordance with these Regulations. All samples become the property of the Tribe and are non-returnable. The material selected for sampling will be determined by the Tribe, not the producer; the inspector, not the producer, may select which plants in a lot are to be selected for sampling. The inspector must be trained using USDA or tribal training procedures. The Tribe must maintain information, available to producers, about trained inspectors.

(b) A producer shall report in writing to the Tribe at least thirty (30) days before an expected harvest date a crop is about to be harvested. The Tribe's receipt of a harvest notification triggers a site inspection and sample collection by an inspector. Samples must be collected within thirty (30) days prior to the anticipated harvest. A producer may not collect its own samples. If the harvest is delayed, an inspector must collect another sample falling within the 30-day harvest window. A producer shall not harvest any hemp lots prior to samples being taken.

(c) An inspector shall contact the producer to confirm the field's location and schedule a time for inspection and sample collection prior to harvest. During a scheduled sample collection, the producer or an authorized representative of the producer shall be present at the growing site.

(d) Tribal inspectors shall be provided with complete and unrestricted access to all hemp, and other cannabis plants, if any, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, producing, processing, or storage of hemp and other cannabis plants, if any, and all locations listed in the producer license.

(e) A separate sample must be taken from each non-contiguous plot of a given variety. A separate sample must be taken for each variety. Samples shall be secured in a paper bag (to allow for air-drying during transport).

(f) Cuttings will be collected to make one representative sample. Samples must be obtained from the flowering tops of plants when flowering tops are present and must be approximately five to eight inches in length from the "main stem" (that includes the leaves and flowers), "terminal bud" (that occurs at the end of a stem), or "central cola" (cut stem that could develop into a bud) of the flowering top of the plant. Depending on the acreage, the tribal inspector shall take cuttings from the number of plants in Section 7 of the Sampling Guidelines for Hemp for the U.S. Domestic Hemp Production Program issued January 15, 2021 within the plot and place the complete sample in a paper bag. The bag shall be sealed by folding over the top once and stapling the bag shut. The sample will be transported to the Tribe for drying and storage.

(g) The tribal inspector shall label the sample container with a sample ID. The sample ID must include the last four numerical digits of the license number, date (MMDDYY), and a two-digit sequential sample number assigned by the inspector.

(h) The sample shall be transported to the Tribe for storage in a secure area. The entire sample must then be sent to the testing lab for analysis.

(i) Harvested lots of hemp plants shall not be commingled with other harvested lots or other material. Floral materials harvested for phytocannabinoid extraction shall not be moved beyond the processor, or commingled, or extracted, until the Tribe releases the material. Non-compliant hemp must remain on its plot until a compliant test has been obtained.

(j) The licensee shall be notified within 30 days of sampling of the status of the testing and eligibility of the harvested materials to leave the Reservation and/or move into market. Any producer may request additional testing at its cost if it is believed that the original total delta-9 THC concentration level test results were in error.

2.4 Testing Procedures

(a) Testing shall be completed by a DEA-registered testing lab not affiliated with any producer on the Reservation. Test results will be reported directly to the USDA through the USDA's information sharing platform, HeMP, and to the Tribe, and then to the licensee by the Tribe. The test results report shall contain (1) the producer's license and authorization identifier, (2) the name of the producer, (3) the business address of the producer, (4) the lot identification number for the sample, (5) the name and DEA registration number of the testing laboratory, (6) the date of the test and report, (7) the identification of a pre-harvest and post-harvest retest, (8) the test result, and (9) the Measurement of Uncertainty (MU).

(b) The testing must be able to accurately identify whether the sample contains a total delta-9 THC content concentration level that exceeds the acceptable hemp THC level. The procedure must include a testing methodology validated by the Tribe that uses post-decarboxylation. The testing methodology must consider the potential conversion of THC-A in hemp into THC and the test result measures total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this Section include gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported by a dry weight basis.

(c) 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 these Regulations. Plots tested and not certified by the lab at or below the acceptable hemp THC level may not be further handled, processed, or enter the stream of commerce. The producer shall ensure the lot is disposed of or remediated in accordance with these Regulations and with the Controlled Substances Act and DEA regulations. The Tribe will notify USDA of any disposals or remediation for producers through the monthly disposal and remediation report submitted to USDA.

(d) Analytical testing for purposes of detecting the concentration levels of THC shall meet the following standards:

- (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;
- (4) Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of these Regulations; and
- (5) An effective disposal procedure for hemp plants that are produced that do not meet the requirements of these Regulations. The procedure must be in accordance with DEA reverse distributor regulations found at 21 CFR § 1317.15, as amended, unless otherwise provided herein.
- (6) Sample preparation of pre- or post-harvest samples shall require grinding of the sample to ensure homogeneity of plant material prior to testing. Sample preparation may follow a procedure described by USDA.

(e) Measurement of uncertainty 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.

(f) The Tribe shall promptly notify the USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp in these Regulations and attach the records demonstrating the appropriate disposal or remediation of those plants and materials in the lot from which the representative samples were taken. This information is due on the first of each month through the USDA's information sharing platform, HeMP.

(g) Only laboratories registered with the DEA may conduct testing under these Regulations. All laboratories must comply with USDA reporting requirements. Laboratories shall only submit test results used to determine compliance with these Regulations. Test results from informal testing conducted throughout the growing season shall not be reported to USDA.

ARTICLE III
Disposal and Remediation of Plants

3.1 Disposal or Remediation Based on Test Results

(a) In the event test results show a THC concentration greater than the acceptable hemp THC level, that harvest must be segregated from other harvested plots and remain segregated. Non-compliant hemp from the harvest of that lot must then be destroyed or remediated. Harvested lots must not be commingled until, at a minimum, each lot has tested compliant for total THC content.

(b) If a variety is designated as a prohibited variety, the Tribe shall require the licensee to surrender without compensation the entire harvest and any unharvested crop, any live plants, and all germplasm of this variety to the Tribe for destruction by composting or burning. The Tribe shall make available to producers a list of prohibited varieties. If a producer plants a non-prohibited variety that later becomes a prohibited variety, the producer shall remove and destroy that prohibited variety crop.

(c) If the Tribe reasonably believes the producer intended to grow hemp with a total delta-9 THC concentration in excess of the acceptable hemp THC level, the Tribe may suspend or revoke a license, exclude the licensee from the Reservation, and report the matter to the USDA.

3.2 Disposal and Remediation

(a) The Tribe may order the disposal or remediation, without compensation to licensee, of hemp found to have a THC concentration greater than the acceptable hemp THC level, hemp located in an area that is not licensed by the Tribe, or hemp not properly accounted for in required reporting to the Tribe or USDA. This possible disposal or remediation applies to all three scenarios.

(b) The disposal or remediation must be conducted either by using a DEA-registered reverse distributor or law enforcement, or on site at the farm or hemp production facility. So long as in compliance with the Controlled Substances Act and DEA regulations, hemp may be destroyed by plowing under, mulching, composting, disking, bush mowing, deep burial, and burning where it is made non-retrievable or non-ingestible. The Tribe shall verify the disposal or remediation in person.

(c) Producers must notify USDA and the Tribe of their intent to dispose of or remediate non-conforming plants and verify disposal or remediation by submitting required documentation. If a producer elects to perform remediation activities, an additional sampling and testing of the post-remediated crop must occur to determine THC concentration levels. It is the responsibility of the producer to pay any fees associated with resampling, remediation, and/or disposal. Any non-compliant hemp parts or biomass that are non-compliant with the acceptable hemp THC level after remediation shall be destroyed. Producers must use the Remediation and Disposal Guidelines for Hemp Growing Facilities for the U.S. Domestic Hemp Production

Program, issued January 15, 2021, as guidance in the disposal or remediation of non-conforming plants. Seeds retained from a successful remediation shall not be used for propagation.

ARTICLE IV

Licensing

4.1 Application

(a) Any individual or entity producing or intending to produce hemp on the Reservation must have a valid license prior to producing, cultivating, handling, processing, or storing hemp. A valid license means the license is unexpired, unsuspended, and unrevoked. Any person who does not hold a valid license from the Tribe shall not produce, cultivate, handle, process, or store hemp on the Reservation.

(b) Any person who wishes to engage in the cultivating, handling, or processing of hemp on the Reservation, including employees and contractors of a licensed entity, shall submit to the Tribe annually a complete license application. An applicant must be at least 18 years of age.

(c) Applicants must submit a complete application to the Tribe before the application will be accepted or considered. All applications must be complete in every material detail. All applications must include all attachments or supplemental information required by the current forms supplied by the Tribe. The application and attached materials will become the property of the Tribe. A license must be renewed annually.

(d) The Tribe may impose a fee to cover the costs of licensing and regulation. If imposed, all applications must be accompanied by a full remittance for the whole amount of the fee. The Tribe may refuse to accept an incomplete application or an application without the required fee.

(e) An applicant shall submit, at a minimum, his or her full name, mailing address, telephone number, and email address. If the applicant represents a business entity, the applicant shall submit the full name of the business, the jurisdiction of formation, the principal business address, the full names of the key participants, their titles and email addresses, and the employer identification number (“EIN”) of the business. The applicant must also submit the legal description of the area where hemp will be cultivated, handled, produced, or processed. Any application that is missing required information may be denied. All applicants must submit to a criminal background check.

(f) All applicants for initial licensure shall provide a photograph and be fingerprinted for a fingerprint-based criminal history record check. A renewal applicant must provide a photograph and be fingerprinted if requested by the Tribe. Any applicant may be required to establish his or her identity and age by official documents. Applicants may be required to sign an authorization to release information as prescribed by the Tribe. All applicants shall undergo and pay for an annual criminal background check. Background checks shall be a national check. A

temporary license may be issued pending completion of the criminal background check. Licenses are not automatically renewed.

(g) A license modification is required if there is any change to the information submitted in the application including, but not limited to, sale of a business, the production, handling, or storage of hemp in a new location, or a change in the key participants producing under a license.

(h) The Tribe reserves the right to deny a license for any reason.

4.2 Badges

(a) The Tribe shall assign each producer with a license or authorization identifier in a format prescribed by USDA. Licenses may not be sold, assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered.

(b) All licensed individuals will receive a badge. The badge will be the license. The Tribe shall acquire a machine for making picture identification badges that will include license numbers. All persons in a hemp production area shall display, on his or her chest, a license identification badge, or a visitor badge, at all times. A licensee shall not alter, obscure, damage, or deface the badge in any manner. All badges will remain the property of the Tribe and may be suspended or revoked for violation of these Regulations or other tribal law. A licensed entity will receive a paper license. Any individual or entity with a hemp license will need to be included in the USDA/HeMP monthly producer report and on the annual report.

4.3 False Statements

(a) All applicants shall submit information to the Tribe in a full, faithful, truthful, and fair manner. The Tribe must deny an application where the applicant made intentional or purposeful misstatements, omissions, misrepresentations, or untruths in the application or in connection with the applicant's background investigation. This type of conduct may be considered as the basis for additional administrative action against the applicant and it may also be the basis for criminal charges against the applicant.

(b) An applicant shall not have and shall not make any false statements or representations to an inspector of the Tribe or a law enforcement agency.

4.4 Hemp Production and Record Keeping

(a) The Tribe shall collect, maintain, and report to the USDA required information for each producer licensed or authorized to produce hemp on the Reservation. This information, including the status of the licensed producers, is due to the USDA on the first of each month through the USDA's information sharing platform, HeMP. This information shall include:

- (1) For each new producer who is an individual and is licensed or authorized under these Regulations, the full name of the individual, license or

authorization identifier, business address, telephone number, and email address (if available).

- (2) For each new producer that is an entity and is licensed or authorized under these Regulations, 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 key participant.
- (3) A legal description of the land on which the producer will produce hemp on the Reservation, including, to the extent practicable, its geospatial location.
- (4) The status and number of the producer's license and authorization.

(b) Producers shall maintain records of all hemp plants acquired, produced, handled, or disposed of as will substantiate any required reports. All records and reports shall be maintained for at least three years.

(c) All records shall be made available for inspection by the Tribe's inspectors, auditors, or their representatives during reasonable business hours. The following records must be made available:

- (1) Records regarding acquisition of hemp plants;
- (2) Records regarding production and handling of hemp plants;
- (3) Records regarding storage of hemp plants; and
- (4) Records regarding disposal or remediation of all cannabis plants that do not meet the definition of hemp.

(d) All reports and records required to be submitted to the Tribe or USDA pursuant hereto 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 licensee or their customers, shall be received by, and at all times kept in the custody and control of, one or more employees of the Tribe or USDA or their representatives. Confidential data or business information may be shared with applicable federal, state, tribal, or local law enforcement or their designee in compliance with the Agricultural Marketing Act of 1946, as amended.

(e) The Tribe may limit the size, location, capacity, and hours of operation of hemp production areas depending on adverse impacts on the Tribe, environment, and surrounding area. Authorized representatives of the Tribe and law enforcement may enter hemp production areas at any time for any reason to inspect said areas.

(f) Hemp shall not be cultivated, handled, produced, or processed in or adjacent to any structure that is used for residential purposes or within 1,000 feet of a school, church, or public recreation area.

4.5 License Suspension

(a) The Tribe may issue a notice of suspension to a producer if the Tribe or its inspector receives some credible evidence establishing that a producer has engaged in conduct violating a provision of these Regulations or failed to comply with a written order from the Tribe related to negligence as defined herein.

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

(c) Any person whose license has been suspended shall not produce hemp during the period of suspension. A producer whose license has been suspended may be required to complete a corrective action plan to fully restore the license.

4.6 License Revocation

The Tribe shall immediately revoke the license of a hemp producer if such producer pleads guilty to, or is convicted of, any felony related to a controlled substance, made any materially false statement with regard to these Regulations to the Tribe or its inspectors with a culpable mental state greater than negligence, is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence, or negligently violated these Regulations three times in five years.

ARTICLE V **Enforcement Procedures**

5.1 Negligent Violation

(a) A hemp producer on the Reservation shall be subject to a corrective action plan if the hemp producer negligently fails to provide a legal description of land on which hemp is cultivated, handled, or processed, negligently fails to obtain a license or other required authorization to produce hemp, or negligently produces hemp with a THC concentration greater than the acceptable hemp THC level. Producers shall not receive more than one negligent violation per growing season.

(b) A hemp producer subject to a corrective action plan shall comply with such plan to correct the negligent violation and the plan shall include, at a minimum, (1) a reasonable date by which the hemp producer shall correct the negligent violation, (2) steps to correct each negligent violation, and (3) a requirement that the hemp producer shall periodically report to the Tribe on compliance of the hemp producer with tribal law related to hemp for a period of not less than the next two calendar years from the date of the negligent violation. The Tribe shall conduct

an inspection to determine if the corrective action plan has been implemented as submitted. 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.

(c) A hemp producer that negligently violates tribal law related to hemp shall not as a result of that violation be subject to any criminal enforcement action. A hemp producer that negligently violates tribal law related to hemp three times in a five-year period shall be ineligible to cultivate, handle, produce, or process hemp on the Reservation for a period of five years beginning on the date of the third violation.

5.2 Other Violations

If the Tribe determines that a hemp producer has violated tribal law related to hemp with a culpable mental state greater than negligence, the Tribe shall immediately report the producer to the U.S. Attorney General and the chief law enforcement officer of the Tribe, as applicable.

5.3 Felony Conviction

A person with a felony conviction relating to a controlled substance is subject to a 10-year ineligibility restriction on producing hemp hereunder from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date. For producers that are entities, key participants of the producer will be subject to the felony conviction restriction for purposes of these Regulations.

5.4 False Statement

Any person who materially falsifies any information contained in an application to produce hemp on the Reservation shall be ineligible to produce hemp on the Reservation.

5.5 Site Access and Reporting

(a) The Tribe shall provide information about licensed cultivating, handling, producing, and processing site locations to representatives of federal law enforcement as requested. The Tribe shall also comply with the reporting requirements set forth in 7 C.F.R. § 990.70.

(b) Licensed producers shall have no reasonable expectation of privacy with respect to buildings or sites where hemp is located. A licensed producer, whether present or not, shall permit an inspector of the Tribe or a law enforcement agency to enter premises where hemp is located with or without cause and with or without advanced notice.

(c) The Tribe shall submit to the USDA not more than 30 days after the date on which the information is received contact information for each hemp producer including name, telephone number, email address, mailing address, a legal description for each plot, field,

facility, or other place where hemp is licensed to be cultivated, handled, produced, or processed, and for each hemp producer the status of his, her, or its license and any changes in that status. The Tribe shall comply with 7 C.F.R. § 990.70 and update the information to the USDA as appropriate.

(d) All hemp must be cultivated, handled, produced, and processed in a secure area located on the Reservation. The secure area must be enclosed with a fence and may only be accessed by licensed persons, authorized visitors, emergency personnel, and law enforcement. Signs should be posted throughout the area that read: “THIS IS HEMP (not marijuana)” or words to that effect. Other signs should be posted that read: “DO NOT ENTER” or words to that effect. All areas of ingress and egress to the enclosed area shall be locked. Failure to comply with the following may be grounds for license suspension, revocation, or denial.

(e) All areas where hemp is cultivated, handled, produced, or processed must be kept in a clean, orderly, and sanitary condition. Litter and waste must be properly stored and removed.

(f) No person shall disclose confidential information, which is information not generally known to the public, unless required to do so by applicable law. Licensees shall not obtain or utilize confidential information the licensee is not lawfully entitled to acquire or possess.

(g) All producers licensed to produce hemp on the Reservation shall comply with 7 C.F.R. § 990.7 and report hemp crop acreage to the USDA Farm Service Agency 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 a producer 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; and
- (3) License or authorization identifier.

(h) All producers licensed to produce hemp on the Reservation shall also report to the Tribe by December 1 of each year total planted acreage, total harvested acreage, and total acreage disposed and remediated. The Tribe will then submit to USDA by December 15 of each year the annual report that contains this information.

5.6 Auditing

(a) Producers shall be audited by the Tribe. The audit 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 producer's hemp operation. The inspection may

include the current crop year, as well as any previous crop year(s). The audit may be performed remotely or in person.

(b) Audit verifications may be performed once every three years unless otherwise determined by the Tribe. If the results of the audit find negligent violations, a corrective action plan may be established.

(c) The producer's operational procedures, documentation, and recordkeeping, and other practices, may be verified during the onsite audit verification. The auditor may also visit the production, cultivation, or storage areas for hemp listed on the producer's license.

(d) The auditor shall assess whether required reports, records, and documentation are properly maintained for accuracy and completeness.

(e) Audit reports will be issued to the licensee within 60 days after the audit is concluded. If the Tribe determines under an audit that the producer is not compliant, the Tribe shall require a corrective action plan. The producer's implementation of a corrective action plan may be reviewed by the Tribe during a future site visit or audit.

ARTICLE VI

Pesticides

6.1 Pesticide Use

(a) A licensee may only use pesticides and other agricultural chemicals in accordance with applicable laws, statutes, rules, and regulations, including permitted use for food crops. Nutrients used in the cultivation of hemp must be appropriate for use in food production.

(b) No licensee may detach, alter, deface, or destroy, in whole or in part, any label on any Pesticide. A licensee must have the original label or a copy thereof for all pesticides and other agricultural chemicals used during its cultivation process.

6.2 Pesticide Records

(a) A licensee must establish written standard operating procedures for the cultivation of hemp. The standard operating procedures must at least include when, and the manner in which, all pesticides and other agricultural chemicals are to be applied during its cultivation process. The licensee must follow the manufacturer's application and storage recommendations, and disposal recommendations for the pesticide product, and must follow EPA Worker Protection Standards when preparing and applying pesticides.

(b) A licensee that applies any pesticide or other agricultural chemical to any portion of a hemp plant, water, or feed used during cultivation must document and maintain a record of the following information:

- (1) The name, signature and license number of the individual who applied the pesticide or other agricultural chemical;
- (2) The date and time of the application;
- (3) The EPA registration number of the pesticide or CAS number of any other agricultural chemical(s) applied;
- (4) Any of the active ingredients of the pesticide or other agricultural chemical(s) applied;
- (5) Brand name and product name of the pesticide or other agricultural chemical(s) applied;
- (6) The restricted entry interval from the product label of any pesticide or other agricultural chemical(s) applied;
- (7) A description of the hemp plants that the pesticide or other agricultural chemical(s) was applied to; and
- (8) The total amount of each pesticide or other agricultural chemical applied.

CERTIFICATION

The undersigned, duly elected members of the Santa Rosa Band Tribal Council, do hereby certify that the foregoing Regulations were amended by unanimous vote of the Tribal Council at a duly noticed meeting of the Tribal Council with a quorum present held on January 26, 2024.

Steven Estrada

Tribal Chairperson

Alexis Sanders-Alto

Tribal Vice-Chairperson

Alyssa Lauture

Tribal Secretary

Mercedes T. Estrada

Tribal Treasurer

Isaac Ramos

Tribal Council

Gabriella Rubalcava

Tribal Council

Linda Richardson

Tribal Council