



# Flandreau Santee Sioux Tribe

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May 6, 2019

**VIA EMAIL TO: [Sonia.Jimenez@ams.usda.gov](mailto:Sonia.Jimenez@ams.usda.gov) AND HAND DELIVERY**

United States Department of Agriculture  
Agricultural Marketing Service  
Hon. Sonia Jimenez  
Deputy Administrator  
1400 Independence Ave. SW  
Rm 2014 S  
Washington DC 20250

**Re: Flandreau Santee Sioux Tribe – Application for a Waiver of Regulatory Requirements in Connection with the Tribe’s Plan To Monitor and Regulate the Production of Hemp**

Dear Deputy Administrator Jimenez:

The USDA received the Flandreau Santee Sioux Tribe’s (“Tribe”) plan to monitor and regulate the production of hemp on March 8, 2019 (“Tribal Plan”). Pursuant to the Agricultural Marketing Act, 7 U.S.C. §1639p (b)(1), the USDA has 60 days, or until May 8, 2019, to approve or disapprove of the Tribe’s plan based on compliance with subsection (a), 7 U.S.C. §1639p (a).

Contrary to this statutory requirement, the USDA states that it will “hold” submissions until regulations have been promulgated. Notice to Trade—Hemp Production Program (available at: <https://www.ams.usda.gov/content/hemp-production-program>). Pursuant to section 6 of Executive Order 13175 (November 6, 2000) (available at: <https://www.govinfo.gov/content/pkg/FR-2000-11-09/pdf/00-29003.pdf>), the Tribe respectfully requests a waiver of USDA’s discretionary “hold” and that USDA approve the Tribe’s plan as compliant with subsection (a) within the 60-day deadline. This will uphold the Federal policy

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objectives of tribal primary regulatory authority under the Agricultural Marketing Act while maintaining compliance with the approval criteria and approval deadline set out by Congress in the statute.

As indicated in the Tribe's March 7, 2019 cover letter, the Tribal Plan complies with subsection (a). The Tribal Plan contains the following:

- (i) a practice to maintain relevant information regarding land on which hemp is produced in the territory of the Tribe, including a legal description of the land, for a period of not less than 3 calendar years (pursuant to Ch. 8, Title 30 of the Flandreau Santee Sioux Tribe Law and Order Code ("Industrial Hemp Ordinance")).
- (ii) a procedure for testing, using post-decarboxylation, delta-9 tetrahydrocannabinol concentration levels of hemp produced in the territory of the Tribe (Chapters 10-11 of the Industrial Hemp Ordinance).
- (iii) (iii) a procedure for the effective disposal of plants and products that are produced in violation of the Agricultural Marketing Act (Chapters 12 - 13 of the Industrial Hemp Ordinance).
- (iv) (iv) a procedure to comply with the enforcement procedures under 7 U.S.C. §1639p (e) (Chapter 15 of the Industrial Hemp Ordinance).
- (v) 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 this subchapter (Chapters 10-11 of the Industrial Hemp Ordinance).<sup>1</sup>
- (vi) a procedure for submitting to the Secretary of Agriculture the information described in section 1639q not later than 30 days after receipt (Chapter 8 of the Industrial Hemp Ordinance).

Please be advised that the Tribe certifies that it has the resources and personnel to carry out the practices and procedures described in 7 U.S.C. §1639p (2)(A)(i)-(vi).

Thank you for your prompt consideration of the Tribe's application for a waiver of the USDA's "hold" policy. Please direct all questions regarding this matter to Seth Pearman, Tribal

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<sup>1</sup> The Tribal Plan is more restrictive than 7 U.S.C. §1639p (a)(2)(v) as it requires a site inspection of all hemp producers upon the Tribe's Hemp Control Officer's receipt of a harvest notification. Industrial Hemp Ordinance, § 30-11-13

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Attorney at [spearman@fsst.org](mailto:spearman@fsst.org) or (605) 200-1496 or to our Washington D.C. counsel, Ben Fenner  
at [bfenner@ndnlaw.com](mailto:bfenner@ndnlaw.com) or (202) 450-4887.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Reider', written over a horizontal line.

Anthony Reider  
Tribal President

cc: The Honorable Sonny Purdue  
Secretary, United States Department of Agriculture  
([farbill.hemp@usda.gov](mailto:farbill.hemp@usda.gov))

Charles Stephens, Associate Deputy Administrator  
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