

USDA'S FINAL RULE ON DOMESTIC HEMP PRODUCTION SUBJECT TO BIDEN ADMINISTRATION'S "REGULATORY FREEZE PENDING REVIEW"

Hodgson Russ Hemp & Medical Cannabis and Agriculture Alert
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On January 19, 2021, one day before the inauguration of Joseph R. Biden, Jr., the U.S. Department of Agriculture ("USDA") published a Final Rule providing regulations for the production of hemp in the United States. Key provisions in the USDA's Final Rule address hemp producer licensing requirements, recordkeeping requirements, procedures for sampling and testing THC concentration levels in hemp, and procedures for harvesting hemp and disposing of non-compliant plants. The Final Rule also included provisions on compliance, violations and appeals.

The Final Rule is set to take effect on March 22, 2021, but on January 20 the Biden administration called on heads of executive departments and agencies to institute a "regulatory freeze pending review" with respect to published rules not yet in effect. The "freeze" will temporarily postpone rule implementation for at least 60 days from January 20, in order to permit an agency head appointed or designated by President Biden to review the rule, along with any questions of fact, law or policy raised by the rule. During the 60-day period, an agency may consider opening a 30-day comment period to allow interested parties to provide comments about issues of fact, law and policy raised by the rule. It is unclear at this point whether the USDA will review the Final Rule or open any 30 day comment period.

This alert will be updated as soon as more details emerge. For more information, please contact Melissa Subjeck (716.848.1719), Sarah Miller (716.848.1509), or any member of Hodgson Russ's [Agriculture Practice](#) or [Hemp & Medical Cannabis Practice](#).

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