

Florida Hemp Program

By Madison Lisotto Whalen

On October 10, 2019, the Florida Department of Agriculture and Consumer Services (“FDACS”) published a Notice of Proposed Rules on the licensure and cultivation of hemp in the Florida Administrative Register. This rulemaking implements Florida Senate Bill 1020 (“SB 1020”) passed in June of this year creating the state hemp program in Florida and putting the FDACS in charge of the program.

Among other provisions, these rules:

- Require a license to cultivate hemp.
- Require an applicant for a hemp cultivation license to submit a full set of fingerprints to the department for a criminal background check.
- Require a license applicant to provide the global positioning coordinates and legal land description of the area where hemp will be cultivated.
- Authorize the department to enter any public or private premises during regular business hours in performance of its duties related to hemp cultivation, including inspections.
- Provide that hemp seed and hemp seed dealers are subject to the provisions of the Florida Seed Law and that registrants shall only use certified seeds.
- Create the Industrial Hemp Advisory Council to provide advice and expertise to the department with respect to plans, policies and procedures applicable to the administration of the state hemp program.
- Expand eligible participants in the industrial hemp pilot projects to include colleges and universities with engineering or pharmacy programs.
- Exclude hemp and industrial hemp from the definition of the controlled substance “cannabis.”

Three divisions within the FDACS will oversee this program:

- The Division of Plant Industry will be in charge of cultivation and licenses. Hemp cannot be planted until the FDACS announces license applications are being accepted, which may be the end of the year.
- The Division of Food Safety will oversee processing, manufacturing and retailing of hemp and hemp extract. Hemp Food Establishment Permits will be issued once the rules are finalized.
- The Division of Agricultural Environmental Services will deal with issues related to seeds, fertilizer and animal feed.

A final note on cannabidiol (“CBD”): CBD products in Florida are currently unregulated and untested. Once these rules are finalized, the FDACS will commence testing of CBD products to ensure consumer safety.

Public hearings on these proposed rules will be held on October 18, 2019 at 9:00 a.m. in the Capitol Cabinet Room in Tallahassee and October 21, 2019 at 9:00 a.m. at the Florida State Fairgrounds in Tampa. Public comment on these rules will be accepted through October 31, 2019. Once the rules are finalized, they will be sent to the United States Secretary of Agriculture.

If you would like more information on this or any other aspect of the hemp or cannabis industries, please contact any of the listed attorneys.

Sean M. Ellis

239.338.4245 | sellis@ralaw.com

Sarah M. Grieb

239.649.2727 | sgrieb@ralaw.com

Ashley D. Lupo

239.649.2736 | alupo@ralaw.com

Madison Lisotto Whalen

614.723.2025 | mwhalen@ralaw.com

Michael S. Yashko

239.338.4249 | myashko@ralaw.com