

**LOUISIANA AGRICULTURAL CHEMISTRY AND SEED COMMISSION  
MEETING MINUTES  
APRIL 11, 2018  
9:30 a.m.**

**Louisiana Department of Agriculture & Forestry Building  
LDAF Veterans Memorial Auditorium  
5825 Florida Boulevard  
Baton Rouge, LA 70806**

**CALL TO ORDER**

The meeting was called to order at 9:42 a.m. by Mr. Fred Bass, Confidential Assistant to Commissioner Dr. Mike Strain.

**ROLL CALL**

The roll was called by Mrs. Tina Ficklin.

The following commission members and/or designees were present: Mr. Fred Bass, Designee for Commissioner Dr. Mike Strain; Dr. Eric Webster, Louisiana Cooperative Extension Service; Mr. Michael Hensgens, Seed Industry LAIA; Mr. David Causey, Fertilizer Industry, LAIA; and Mr. Kyle McCann, Designee for Mr. Ronnie Anderson, Louisiana Farm Bureau Assn. A quorum was declared.

Absent members: Dr. Philip Elzer, Louisiana Agricultural Experiment Station and Mr. Ed O'Neal, Feed Industry, LAIA.

Others Present: Benjy Rayburn, Assistant Commissioner of LDAF Agricultural and Environmental Sciences; Lester Cannon, Director of Seed Programs Division; Dr. Mark LeBlanc, Director of Agricultural Chemistry Programs Division; Angelle Pearson, Assistant Director of Agricultural Chemistry Programs Division; Meagan Davis, Feed Director/Assistant Director of Agricultural Chemistry Programs; Lauren Boydston, Agricultural Chemistry Programs Division, Tina Ficklin, LDAF Seed Programs ; Jason Schmidt, Agricultural Chemistry Programs Division; David Johnston, LDAF Seed Programs ; Amy McInnis, LDAF AES Counsel and Mr. Michael Heier, Assistant Attorney General.

**PUBLIC COMMENT**

No public comment.

**APPROVAL OF PROCEEDINGS**

**Motion** to approve the proceedings as written from the November 8, 2017 Louisiana Agricultural Chemistry and Seed Commission meeting was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion approved unanimously.

**ESTABLISH DATE FOR NEXT COMMISSION MEETING**

LDAF staff recommended a tentative date of October 24, 2018 for the next commission meeting.

**OLD BUSINESS**

Lester Cannon gave an update on the Seed Programs Division, including the resolution and closure of adjudicatory cases that were accepted as provisional status at the November 8, 2017 meeting. Mr. Cannon informed the commission of the proposed Seed Law changes that are currently under legislative review; including an amendment to add two new members to the Louisiana Agricultural Chemistry and Seed Commission; one member actively engaged in farming appointed by the chairman of the House Agriculture, Forestry, Aquaculture, and Rural Development committee and a second member actively engaged in farming appointed by the chairman of the Senate Agriculture, Forestry, Aquaculture, and Rural Development Committee.

Dr. Mark LeBlanc gave an update on the Agricultural Chemistry Feed, Fertilizer and Agricultural Liming Programs. He informed the Commission of the laboratory's accreditation progress, the staff's efforts to modernize the sampling process to reach more companies, the status of the Animal Feed FDA grant and the ISO accreditation process and status. Plans are underway to host, in conjunction with local industry leaders, a fertilizer blending school for inspectors and industry producers. The Agricultural Chemistry lab received funding to update analytical lab equipment.

Lester Cannon and Mark LeBlanc extended an invitation to the Commission members to tour the laboratories after the Fall 2018 meeting.

## **NEW BUSINESS**

### **The Seed Programs Staff Proposed the following Seed Programs Division rule changes:**

1. §101 et seq. – References to old section numbers  
Remove the reference to former rule numbers due to reformatting.
2. §101 – Corrections to Seed Law references; definitions  
Correct the Seed Law reference number, Add the definition for hermetically sealed containers, amend prohibited noxious weed seed definition, explain the prohibitions of noxious weed seed, delete definition of Seed Gathered in Elevators.
3. §109 – Updates to Noxious weed table  
Re-number most of the table caused by alphabetical order changes due to name changes and additions, spelling corrections and reducing the Sum of Total Noxious Weed Seed content to 300 per pound.
4. §131 – Grammatical change; germination test date period; supplemental labels  
Clerical and heading changes, amending germination test date period to include a packed for year for vegetable packets less than one pound, and proposal to allow the relabeling of seed lots with expired test dates to use supplemental labels, adds a requirement of placement of supplemental label and in the case of seed lots failing to meet label guarantee, this proposed change requires the new germination percentage to be stated on the new label.
5. §133 – Tag Requirements  
To allow the analysis tag shown in this section to be used as a reference. Change wording to harmonize with Seed Law labeling requirements.
6. §141 – Germination standards for vegetable seeds  
Deleting an outdated USDA reference and adding an updated reference.
7. §301 – Supplemental labels  
Add reference to supplemental labels to coincide with language in §131.
8. §519 – Substandard germination of carryover certified seed  
Add section to address carryover certified seed lots that fall below required germination to allow a “sub-standard” germination label to re-enter seed trade.
9. §709 – Field Standards; noxious weeds

- Clerical corrections
10. §723 – Increase of registered acres; noxious weeds  
Grammatical corrections, replacing wording previously denoted by asterick to a new heading.
  11. §749 – Noxious weeds  
Changing name to harmonize with noxious weed list
  12. §755 – Field Tolerance Table  
Remove duplicate Field Standards Tolerance table
  13. §761 – Field Standards Table; noxious weeds  
Delete certain scientific names to harmonize field tables throughout standards

**Motion:** Mr. Michael Hensgens made a motion to accept the proposed Seed Programs Division rule changes as described. Dr. Eric Webster seconded the motion. Motion passed unanimously.

**Motion** to accept a Resolution of Adoption for the rule changes as presented, without opposition or changes, was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion passed unanimously.

### **ADJUDICATORY HEARING**

Mr. Fred Bass turned over the meeting to hearing officer, Mr. Michael Heier, Assistant Attorney General.

### **Seed Programs Division Case**

#### **Seed Programs Division Case Number 18-05 – The Home Depot #362**

The Home Depot #362 was charged with one violation of the Louisiana Seed Law R.S. 3:1440 for violation of a written Seed Programs Division Stop Order.

Ms. Amy McInnis entered exhibits LDAF 1 and LDAF 2 into evidence as the findings of facts and conclusions of law. LDAF 1: charge letters sent via certified mail with signed receipts. LDAF 2: emailed copy of a signed, witnessed and notarized stipulations between the LDAF and Respondent. Mr. Michael Heier, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Hundred Dollars (\$500.00) for the violation, with no suspension of penalty due to Respondent's compliance history.

**Motion** to accept the provisional stipulation letter as the findings, facts and conclusions of law, and to accept the recommended total penalty of Five Hundred Dollars (\$500.00) was made by Mr. Kyle McCann and seconded by Mr. David Causey. Motion passed unanimously.

### **Agricultural Chemistry Division Cases:**

#### **Cases continued until Fall 2018 meeting**

Agricultural Chemistry Case Number AC17-35 -- Inaba Foods (USA) Inc.

#### **Cases recommended for Dismissal**

Agricultural Chemistry Case Number AC17-18 – Hiland Naturals  
Agricultural Chemistry Case Number AC17-34 – Hound & Gatos Pet Food Corp  
Agricultural Chemistry Case Number AC17-36 – Time Square Food Imports, Inc.

**Motion** to accept dismissal of cases as requested by LDAF Staff was made by Mr. Michael Hensgens, seconded by Mr. David Causey. Passed without opposition.

**Stipulated Cases**

**Three delinquent fertilizer tonnage report violations with no prior appearances in the past five years**

**Agricultural Chemistry Division Case Number 17-01 – BAM Agricultural Solutions**

Bam Agricultural Solutions was charged with three violations of the Louisiana Fertilizer Law R.S. 3:1411 *et seq.*, particularly, R.S. 3:1417(A)(8) – failure to timely file quarterly tonnage reports and pay inspection fees.

Ms. Amy McInnis asked that exhibits marked LDAF 1 and LDAF 2 be accepted into evidence as the findings of facts and conclusions of law. LDAF 1: Charge Letters sent via Certified Mail with signed receipt. LDAF 2: Signed, witnessed and notarized Stipulation between the LDAF and Respondent. Mr. Michael Heier, hearing officer, accepted the evidence presented.

LDAF staff recommended a penalty of One Hundred Dollars (\$100.00) per violation for a total fine of Three Hundred Dollars (\$300.00).

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Three Hundred Dollars (\$300.00), was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion passed unanimously.

**Three delinquent fertilizer tonnage report violations with prior appearances in the past five years**

**Agricultural Chemistry Division Case Number AC17 – 05 – American Colloid Company**

American Colloid Company was charged with three violations of the Louisiana Fertilizer Law R.S. 3:1411 *et seq.*, particularly, R.S. 3:1417 (A)(8) – failure to timely file quarterly tonnage reports and pay inspection fees.

Ms. Amy McInnis asked that exhibits marked LDAF 1 and LDAF 2 be accepted into evidence as the findings of facts and conclusions of law. LDAF 1: Charge Letter sent via Certified Mail with signed receipt. LDAF 2: Signed, witnessed and notarized Stipulation between the LDAF and Respondent. Mr. Michael Heier, hearing officer, accepted the evidence presented.

LDAF staff recommended a penalty of Two Hundred Dollars (\$200.00) per violation for a total fine of Six Hundred Dollars (\$600.00)

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Six Hundred Dollars (\$600.00) was made by Mr. Michael Hensgens and seconded by Mr. David Causey. Motion passed unanimously.

**Three delinquent feed tonnage reports with no prior appearances in the past five years**

**Agricultural Chemistry Division Case Number AC17 – 17 – Hay-Rite, Inc.**

Hay-Rite, Inc was charged with three violations of the Louisiana Feed Law R.S. 3:1397 *et seq.*, particularly, R.S. 3:1401 (C)(4) – failure to timely file quarterly tonnage reports and pay inspection fees.

Ms. Amy McInnis asked that exhibits marked LDAF 1 and LDAF 2 be accepted into evidence as the findings of facts and conclusions of law. LDAF 1: Charge Letter sent via Certified Mail with signed receipt. LDAF 2: Signed, witnessed and notarized Stipulation between the LDAF and Respondent with receipt of perfected form corrected for clerical issue forthcoming. Mr. Michael Heier, hearing officer, accepted the evidence presented.

LDAF staff recommended a penalty of One Hundred Dollars (\$100.00) per violation for a total fine of Three Hundred Dollars (\$300.00).

**Motion** to accept the provisional stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Three Hundred Dollars (\$300.00), was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion passed unanimously.

### **Cases Without Stipulations**

#### **Three delinquent feed tonnage report violations with no prior appearances in the past five years.**

##### **Agricultural Chemistry Division Case Number AC17 – 20 – Neighborhood Pet Products**

Neighborhood Pet Products was charged with three (3) violations of the Louisiana Feed Law R.S. 3:1397 *et seq.*, particularly, R.S. 3:1401(C)(4) – failure to timely file quarterly tonnage reports and pay inspection fees.

Ms. Amy McInnis asked that exhibits marked LDAF 1 be accepted in the absence of the respondent, and that LDAF 1, LDAF 2, LDAF 3 and LDAF 4 be accepted into evidence as the findings of facts and conclusions of law. LDAF 1: Charge Letter sent via Certified Mail with signed receipt. LDAF 2: Late filing 1<sup>st</sup> Quarter Feed Tonnage Report. LDAF 3: Late filing 3<sup>rd</sup> Quarter Feed Tonnage Report. LDAF 4: Late filing 4<sup>th</sup> Quarter Feed Tonnage Report

Ms. Angelle Pearson was called to testify on behalf of the Louisiana Department of Agriculture and Forestry. Mr. Michael Heier, hearing officer, accepted the evidence. Ms. Pearson testified that the exhibits had not been tampered with in any way. Mr. Michael Heier, hearing officer, accepted the evidence presented in front of the commission.

**Motion** to accept exhibits LDAF 1, LDAF 2, LDAF 3 and LDAF 4 as evidence presented by the Louisiana Department of Agriculture and Forestry as the findings of facts and conclusion of law, and to find Neighborhood Pet Products guilty as charged, was made by Mr. Michael Hensgens and seconded by Mr. David Causey. Motion passed unanimously.

Mr. Michael Heier asked LDAF staff for a recommendation on the penalty. LDAF staff recommended a penalty of Two Hundred Dollars (\$200.00) per violation for a total fine of Six Hundred Dollars (\$600.00).

**Motion** to accept the recommended total penalty of Six Hundred Dollars (\$600.00) was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion passed unanimously.

#### **Four delinquent feed tonnage reports with prior appearances in the past five years**

##### **Agricultural Chemistry Division Case Number AC17 – 37 – Hi Tek Rations**

Hi-Tek Rations has been charged with four (4) violations of the Louisiana Feed Law R.S. 3:1397 *et seq.*, particularly, R.S. 3:1401(C)(4) – failure to timely file quarterly tonnage reports and inspection fees.

Ms. Amy McInnis asked that exhibits marked LDAF 1 be accepted in the absence of the respondent, and that LDAF 1, LDAF 2 and LDAF 3 be accepted into evidence as the findings of facts and conclusions of law. LDAF 1: Charge Letter sent via Certified Mail with signed receipt. LDAF 2: Late filing 1<sup>st</sup> Quarter Feed Tonnage Report. LDAF 3: Late filing 2<sup>nd</sup> Quarter Feed Tonnage Report.

Ms. Angelle Pearson was called to testify on behalf of the Louisiana Department of Agriculture and Forestry. Mr. Michael Heier, hearing officer, accepted the evidence. Ms. Pearson testified that the exhibits had not been tampered with in any. Mr. Michael Heier, hearing officer, accepted the evidence presented in front of the commission.

**Motion** to accept exhibits LDAF 1, LDAF 2 and LDAF 3 as evidence presented by the Louisiana Department of Agriculture and Forestry as the findings of facts and conclusion of law, and to find Hi-Tek Rations guilty as charged, was made by Mr. Michael Hensgens and seconded by Dr. Eric Webster. Motion passed unanimously.

Mr. Michael Heier asked LDAF Staff for a recommendation on the penalty. LDAF staff recommended a penalty of Four Hundred Dollars (\$400.00) per violation for a total fine of Sixteen Hundred Dollars (\$1600.00).

It was further recommended by the Commission that the fine be re-assessed due to past deficiencies that have not been corrected. Therefore, the newly recommended penalty proposed to be Eight Hundred Dollars (\$800.00) per violation for a total fine of Three Thousand Two Hundred Dollars (\$3,200.00).

**Motion** to accept the re-assessed recommended total penalty of Three Thousand Two Hundred Dollars (\$3,200.00) was made by Mr. Michael Hensgens and seconded by Mr. Kyle McCann. Motion passed unanimously.

### **PUBLIC COMMENTS**

There were no public comments.

### **ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Kyle McCann and seconded by Mr. David Causey. The motion passed unanimously.