

**LOUISIANA AGRICULTURAL CHEMISTRY AND SEED COMMISSION  
TENTATIVE MINUTES (\*PENDING COMMISSION APPROVAL)**

**March 9, 2022**

**9:30 AM**

**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 9:35 a.m. by Mr. Todd Parker, Confidential Assistant to Commissioner Mike Strain, DVM.

**ROLL CALL**

The roll was called by Ms. Erica Morse.

The following commission members and/or designees were present: Mr. Todd Parker, Designee for Commissioner Mike Strain; Dr. Edward Twidwell, Louisiana Cooperative Extension Service; Mr. Cecil Jones, Seed Industry Representative; Mr. David Causey, Fertilizer Industry Representative; Mr. Ed O'Neal, Feed Industry Representative; Mr. Ron Harrell, Designee for Mr. Jim Harper, Louisiana Farm Bureau Assn; Mr. Gregory Gravois, House Ag Committee Appointee; and Mr. Travis Walker, Senate Ag Committee Appointee. A quorum was declared by Mr. Todd Parker.

Others Present: Lester Cannon, Director of LDAF Seed Programs Division; Dr. Ted Gauthier, Director of LDAF Agricultural Chemistry Programs Division; Dr. Ansel Rankins Sr, Assistant Commissioner LDAF Agricultural & Environmental Sciences; David Johnston, LDAF Seed Programs Coordinator; Gary Cross, Industrial Hemp Program Coordinator; Dr. Jonathan Roberts, Director of LDAF Feed Program; Angelle Pearson, Director of LDAF Fertilizer and Lime Programs; Courtney Shaw, Feed Program; Erica Morse, Industrial Hemp Program; Paeton Burkett, LDAF Attorney; and Jeffrey Wales, Assistant Attorney General, Kevin Wofford, Assistant Commissioner of Animal Health Services; Gary Primeaux, Director of the Louisiana Agricultural Industries Association; Lauren Boydston, Agricultural Chemistry Program; Baleigh Olah, LDAF Attorney; and Amy McInnis, LDAF General Counsel.

**PUBLIC COMMENT**

No public comment.

**APPROVAL OF MINUTES**

**Motion** to approve the minutes from the July 20, 2021 Agricultural Chemistry and Seed Commission meeting as presented was made by Mr. Gregory Gravois and seconded by Mr. David Causey. Motion approved unanimously.

**OLD BUSINESS**

Mr. Cannon provided the following information to the commission:

- Introduced Mr. Gary Cross, the new LDAF Industrial Hemp Program Coordinator, and commission meeting guest Gary Primeaux, Director of LAIA Industries.
- Updated the Commission members on the status of the adjudicatory cases that were accepted by the commission at the July 20, 2021 meeting. Mr. Cannon informed the commission that two cases were fully resolved, but that two of the industrial hemp cases were not resolved and subsequently turned over to the Attorney General's Office for collection.
- Informed the commission that the most recent proposed industrial hemp regulation revisions were published and effective December 20, 2021.

David Johnston provided the following report on seed testing and regulatory activities:

- Louisiana is mostly an importer of seed, and LDAF inspectors are collecting samples from about 90% of all the seed lots sold in the state or are having overview or contact by LDAF inspectors.
- The lab receives over 4000 samples per year and have about a 95% compliance rate.
- Biological seed treatments are becoming more prevalent, and those products might need an expiration date on labels. Seed is a living product, therefore when you buy a seed with a biological treatment, you are buying two products. The seed control officials intend to address biological treatments on seed at the next annual meeting.

Mr. Cannon & Mr. Johnston gave an update on presentations they provided at the Louisiana Agricultural Consultants Association meeting in February 2022 on seed germination and vigor testing, an overview of department activities, and the requirements and importance of seed labels.

It was further noted that LDAF is not currently acting on internet sales delivered directly to the farm. If the consumer has a problem, LDAF strongly encourages them to contact their seed dealer first, but if the issues cannot be worked out, the consumer can use our LDAF staff to provide testing information to achieve a resolution.

Gary Cross provided the following report on the LDAF Industrial Hemp Program:

- The number of licenses decreased since the inception of the program in 2020. The industry is looking for fiber varieties that may be successful in Louisiana.
- In 2022, there were fewer lots harvested, fewer samples collected for THC testing, and plantings by variety types.
- The state industrial hemp plan approved under USDA final rule allows for criminal background check every three years for all hemp licensees, variety designation list published to show the public the number of THC tests and results, microgreens on track for performance-based sampling, negligent violations above 1.0% total THC to be destroyed and not remediated, harvest window increased from 15 days to 30 days, and negligent violation threshold raised from 0.5% to 1.0% total THC.
- Mr. Cross also stated that growers need assistance with reporting requirements and keeping growing conditions sanitary.

Dr. Ted Gauthier provided the following update on the Agricultural Chemistry Programs:

- The lab provides services for seven programs within the Department of Agriculture & Forestry and for researchers at the LSU AgCenter.
- Recently added iso-accreditation to several tests performed primarily for the feeds program and last year they added an additional test to the iso-accreditation, the mycotoxin DON test.
- The Program has received an FDA grant for \$385,000 per year for five years to continue looking at samples of interest to the FDA.
- There is an ongoing civil job service recruiting/personnel problem within the Program due to job descriptions not matching the activities being performed, especially when it comes to the analysts.

The Program staff is working with civil service department to create job titles and descriptions that more accurately reflect the job.

Mrs. Angelle Pearson provided the following report on the fertilizer and lime programs:

- Last fiscal year ended June 30 for fertilizer and lime. The samples tested in that time were within 93% passing.
- Also provided was the number of samples tested and number of penalties or deficiency assessments paid to the farmer and penalties/deficiency assessments paid to the state (offered for sale but is not owned by anyone yet).
- The lab tested 1591 medical marijuana samples from 2018-present day from Good Day Farms, LSU's contracted grower, and 1291 samples from Ilera Health (SU's contracted grower). The number of medical marijuana samples tested has increased due to the allowance for flower to be sold.
- The lab also tested 210 samples of industrial hemp since the inception of the industrial hemp program in 2020.

Dr. Ted Gauthier clarified the types of testing performed on medical marijuana (extensive testing) and industrial hemp (just THC testing). He further stated the lab also performs work for a sister agency, DEQ. He explained the DEQ lab shut down years ago but still needed testing completed for EPA.

Dr. Jonathan Roberts provided the following update on the LDAF feed program:

- There are roughly 653 licensed feed manufacturers and guarantors, approximately 62 are active manufacturing sites in Louisiana, and roughly 15,000 registered feed labels.
- The program is regulated with 12 basic inspectors which have a dual role as vet service animal health technicians; three advanced inspectors which are also FDA credentialed under FDA to perform comprehensive inspections in feed mills.
- The program inspectors collect about 2000 regulatory feed and pet foods samples annually and numerous investigative samples in which the lab analyzes for label guarantees.

Members of the commission expressed concern about the amount of direct seed sales to farmers and the fact that this seed is not being tested. Mr. Cannon explained there was no venue for LDAF to sample the seed, and the law and regulations were interpreted such that LDAF did not have authority to regulate internet seed sales shipped directly to farmer or consumer. Mr. Cannon stated that he would discuss the issue with the LDAF legal counsel and report back to the commission at the next meeting.

## **ADJUDICATORY HEARING**

Mr. Todd Parker turned the meeting over to hearing officer, Mr. Jeffrey Wales, Assistant Attorney General.

### **Seed Programs Cases**

#### **Case No: SD 21-02, Barenbrug USA, Inc.**

Barenbrug USA, Inc. was charged with four violations of the Louisiana Seed Law and regulations, specifically, conflicting labeling information, low germination percentage, germination percentage out of tolerance, and failing to provide required labeling information.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence; LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Six Hundred Twenty-Five Dollars (\$625.00) for the violations.

**Motion** to accept the stipulation letter as the findings, facts and conclusions of law, and to accept the recommended penalty of Six Hundred Twenty-Five Dollars (\$625.00) was made by Mr. Todd Parker and seconded by Mr. Travis Walker. Motion passed unanimously. No recusals or abstentions.

**Case No: SD 21-03, J & J Bagging**

J & J Bagging was charged with ten violations of the Louisiana Seed Law and regulations, specifically, low germination and hard seed percentages, coated seed percentages, germination percentage out of tolerance, and excessive noxious weed seed content.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Two Thousand Two Hundred Fifty Dollars (\$2,250.00) for the violations, with One Thousand One Hundred and Twenty-Five Dollars (\$1,125.00) of the penalty suspended for a total penalty of One Thousand One Hundred and Twenty-Five Dollars (\$1,125.00).

**Motion** to accept the stipulation agreement as the findings of facts and conclusions of law, and to accept the recommended penalty of One Thousand One Hundred Twenty-Five Dollars (\$1,125.00) was made by Mr. Todd Parker and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

**Case No: SD 21-04, Nutrien Ag Solutions 4568**

Nutrien Ag Solutions 4568 was charged with four violations of the Louisiana Seed Law and regulations, specifically, failing to provide a required noxious weed statement on seed labels.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Hundred Dollars (\$500.00) for the violations, with Two Hundred Fifty Dollars (\$250.00) of the penalty suspended.

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended total reduced penalty of Two Hundred Fifty Dollars (\$250.00) was made by Mr. Todd Parker and seconded by Mr. Ed O'Neal. Motion passed unanimously. No recusals or abstentions.

**Case No: SD 21-05, Green Garden Products**

Green Garden Products was charged with twenty-eight violations of the Louisiana Seed Law and regulations, specifically, low germination percentages, no germination percentage given, required label information not written or given, seed not labeled as below standard.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt and seed notices of violation, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Three Thousand Five Hundred Dollars (\$3,500.00) for the violations.

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended penalty of Three Thousand Five Hundred Dollars (\$3,500.00) was made by Mr. Gregory Gravois and seconded by Mr. Travis Walker. Motion passed unanimously. No recusals or abstentions.

## **Industrial Hemp Cases**

### **Case No: IH 21-05, Julia Collins**

Julia Collins was charged with one violation of the Louisiana Industrial Hemp Law, specifically, failure to submit a 2021 Production Report.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Hundred Dollars (\$500.00) for the violations, with Two Hundred Fifty (\$250.00) of the penalty suspended.

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended total reduced penalty of Two Hundred Fifty Dollars (\$250.00) was made by Mr. Cecil Jones and seconded by Mr. Gregory Gravois. Motion passed unanimously. No recusals or abstentions.

### **Case No: AC 21-01, Compass Minerals Ogden, Inc.**

Compass Minerals Ogden, Inc. was charged with three violations of the Fertilizer Law, specifically, failing to timely file tonnage reports and pay inspection fees.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt, and LDAF 2: signed, witnessed and notarized stipulation agreement between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Agricultural Chemistry Programs Staff recommended a penalty of Three Hundred Dollars (\$300.00) for the violations.

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended total of Three Hundred Dollars (\$300.00) was made by Mr. Ed O'Neal and seconded by Mr. David Causey. Motion passed unanimously. No recusals or abstentions.

### **Case No: AC 21-02, RX Green Technologies, LLC**

RX Green Technologies, LLC. was charged with three violations of the Fertilizer Law; failing to timely file tonnage report and pay inspection fees.

Ms. Paeton Burkett entered exhibits LDAF 1 and LDAF 2 into evidence LDAF 1: charge letter sent via certified mail with signed receipt, and LDAF 2: signed, witnessed and notarized stipulations between the LDAF and Respondent. Mr. Jeffrey Wales, hearing officer, accepted the evidence as presented.

The Agricultural Chemistry Programs Staff recommended a penalty of Three Hundred Dollars (\$300.00) for the violations.

**Motion** to accept the stipulation letter as the findings of facts and conclusions of law, and to accept the recommended total of Three Hundred Dollars (\$300.00) was made by Mr. Travis Walker and seconded by Mr. Gregory Gravois. Motion passed unanimously. No recusals or abstentions.

## **NEW BUSINESS**

### **Sexual Harassment Prevention - Resolution for Delegation of Authority**

Baleigh Olah provided an update on the requirements of the prevention of sexual harassment applicable to all public servants. She stated that public servants must receive a minimum of 1.0 hour of education and training on preventing sexual harassment each calendar year, and LDAF ensures all commission members complete the required training.

**Motion** to approve the Sexual Harassment Prevention-Resolution for Delegation of Authority training as presented was made by Mr. Gregory Gravois and seconded by Mr. Travis Walker. Motion approved unanimously.

### **Seed Regulation Revision Proposals**

The Seed Programs Division Staff proposed the following revision to the seed regulations.

#### **§131. Analysis Test; Labeling of Seed**

Require the ‘coated seed’ labeling statement to be a minimum of 8 pt. type to make it consistent with the other seed labeling requirements.

**Motion** to authorize the proposed seed regulations in their entirety as presented was made by Mr. David Causey and seconded by Mr. Ed O’Neal. Motion approved unanimously.

Motion to accept a Resolution for Approval of Regulations to be Promulgated for Adoption was made by Mr. David Causey and seconded by Mr. Ed O’Neal. Motion approved unanimously.

### **Industrial Hemp Regulation Revision Proposals**

The Industrial Hemp Program staff proposed the following revisions to the industrial hemp regulations.

#### **§1303. Definitions**

Define “Approved variety”; revise the definition of “Farm Service Agency (“FSA”) Lot ID”; define “Growing season”; define “Industrial Hemp Greens”; define “Industrial Hemp Microgreens”; define “Industrial Hemp Transplants”; revise the definition of “Prohibited Variety”; revise the definition of “Remediate or Remediation”; define “School”; and define “Variety Designation List”

#### **§1315. Criminal Background Check**

Revise the background check requirement in the regulations to align the background check requirements of the Industrial Hemp Law; extend the background check requirement to every three years.

#### **§1319. Requirements for Seed Producers and Growers**

Add the requirement that hemp producers must provide the FSA-578 form to LDAF.

#### **§1321. Seed Acquisition and Approval**

Provides specific guidance to growers on varieties designated as approved or prohibited.

#### **§1327. Prohibitions**

Prohibit the cultivation and distribution of ‘prohibited varieties’ and producing hemp in excess of 1.0 percent THC concentration.

#### **§1329. Production Reports**

Add the requirement that Annual Production Reports include the total amount of seed sold and value of that seed.

**§1332. Reporting to USDA**

Clarify the process in which LDAF must submit program information to USDA.

**§1335. THC Sampling and Testing**

Require the submittal of the FSA-578 form for a specific lot prior to LDAF releasing THC test results.

**§1337. Remediation and Destruction**

Add the prohibition for the remediation option for hemp testing over the 1.0 percent negligence threshold.

**§1341. Corrective Action Plan for Negligent Violations and Mandatory Reporting**

Change ‘contract carrier’ to ‘handler’ to reflect the recently authorized license; revise the negligence threshold to align with the federal negligence threshold of greater than 1.0 percent.

**Motion** to allow the Commission, in an advisory capacity, to recommend the Commissioner adopt the proposed industrial hemp regulations in their entirety as presented was made by Mr. Ed O’Neal and seconded by Mr. Travis Walker. Motion approved unanimously.

**PUBLIC COMMENT**

No public comment.

**ADJOURNMENT**

**Motion** to adjourn the meeting was made by Mr. Ed O’Neal and seconded by Mr. David Causey. Motion passed unanimously.