

LOUISIANA AGRICULTURAL CHEMISTRY AND SEED COMMISSION
MEETING MINUTES
July 20, 2021
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 9:35 a.m. by Mr. Todd Parker, Confidential Assistant to Commissioner Mike Strain, DVM.

ROLL CALL

The roll was called by Mrs. Tina Ficklin.

The following commission members and/or designees were present: Mr. Todd Parker, Designee for Commissioner Mike Strain; Dr. Philip Elzer, Louisiana Agricultural Experiment Station; Dr. Edward Twidwell, Louisiana Cooperative Extension Service; Mr. Cecil Jones, LAIA Seed Industry Representative; Mr. David Causey, LAIA Fertilizer Industry Representative; Mr. Ed O'Neal, LAIA 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.

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; Dr. Angela Guidry, LDAF Industrial Hemp Program Coordinator; Dr. Jonathan Roberts, Director of LDAF Feed Program; Angelle Pearson, Director of LDAF Fertilizer and Lime Program; Courtney Shaw, Feed Program; Erica Morse, LDAF Industrial Hemp Program; Tina Ficklin, LDAF Seed Programs; Paeton Burkett, LDAF Attorney, Jim Jenkins, LDAF and Alicia Wheeler, Assistant Attorney General.

PUBLIC COMMENT

No public comment.

APPROVAL OF MINUTES

Motion to approve the proceedings from the October 20, 2020 Agricultural Chemistry and Seed Commission meeting as presented was made by Dr. Philip Elzer and seconded by Mr. Greg Gravois. Motion approved unanimously.

OLD BUSINESS

Introduction of new commission members, Mr. Cecil Jones LAIA Seed Industry and Dr. Edward Twidwell, Louisiana Cooperative Extension Service; Dr. Ansel Rankins, as Assistant Commissioner of AES Programs; Paeton Burkett as LDAF AES Attorney; Erica Morse as Administrative Coordinator for

the Industrial Hemp Program and the resignation of Dr. Angela Guidry as the Program Coordinator for the Industrial Hemp Program.

Mr. Cannon updated the Commission members on the Seed Programs Division, including the resolution of adjudicatory cases that were accepted at the October 20, 2020 meeting and an update on the Seed and Hemp Programs staff changes. At the request of the Commission, he also gave an update on the foreign seed packages received in 2020.

Angelle Pearson gave an update on the Agricultural Chemistry Fertilizer and Lime Programs, including sample collection and regulatory compliance, civil service job study to help with employee recruitment. She informed the Commission of the laboratory's accreditation progress.

Dr. Jonathan Roberts gave an update on the Agricultural Chemistry Feed Program, including regulatory compliance of feed labels, sample collection and pet food recalls due to high levels of aflatoxin. He also informed the Commission on the current hemp law, HB640, which removes the regulatory oversight of feed products containing hemp from LDAF.

Dr. Ted Gautier gave a general overview of the Agricultural Chemistry Program and FDA updates including new equipment purchased with grant funds, and employee changes due to vacancies due to recent staff retirements.

David Johnston gave an update on annual report for Seed Programs for FY 2021. He provided the seed testing laboratory annual report, including samples received and number of tests performed on those samples. Also discussed, seed compliance issues, particularly low germination found in agriculture crops.

Dr. Angela Guidry, LDAF Industrial Hemp Program Coordinator, gave an update on the hemp program, identifying challenges for the first year including disease, seed quality issues and weather-related failures. She also addressed the significant difference in acreage planted in 2021 as opposed to 2020 growing season; mainly due to fiber variety growing challenges; changes resulting from the USDA final rule that will be effective March 2022, including an increased harvest window from 15 days to 30 days, increasing from 0.5% to a 1% total THC negligence violation, the legislative approval of hemp research in the hemp program, legislative changes moving human consumption processing to LDH for FY 22, adding University of Louisiana Monroe to regulatory exemption list and removed the Contract Carrier license and added a Handler's License.

The commission was informed that LDAF legal staff will be offering online training for open meeting laws.

NEW BUSINESS

Industrial Hemp Law Amendments Update:

Lester Cannon gave an overview of the law changes resulting from the 2021 legislative session. Noting the current updated law, with 2021 amendments, is posted on the LDAF website.

Industrial Hemp Regulation Amendments Proposal

Lester Cannon provided the commission with a summary of changes resulting from Act No 336 of the 2021 regular legislative session, not including technical changes.

1301. Authority

Reflects the new handler license in lieu of contract carrier license. Aligns the revision with the hemp law.

1303. Definitions

Acceptable Industrial Hemp THC Level

Added the word total to reflect Louisiana's total THC requirements

Corrective Action Plan

Defines an approved corrective plan as per USDA guidelines

Destruction Report

Defines to coordinate with the Regulations

Federally Defined THC level for hemp

Deleted from the hemp law and thereby stricken from the regulations

Grower

Referenced in the regulations, therefore defined

Handler/Handling

Reflects the new license in the regulations, therefore defined

Harvest/Destruction Report

Report needed to be divided to two forms and identify separately.

Industrial Hemp

Adds the word total to reflect Louisiana's total THC requirement

Industrial Hemp Plant parts

Aligns the Regulations with the Hemp Law

Key Participants

USDA Final rule removed the requirement for key participants to have background checks. It was removed from the Regulations as a result of the recent law change aligning with USDA final rule.

LDAF

Moves this definition to alphabetical order in definition list

License application

Revises the regulations to reflect authority of existing hemp licenses and new handler's license

Licensee

Changes the reference from contract carrier to handler

Negligence or Negligent Violation

Expand the definition to include Negligent Violation

Non-consumable hemp

The term is referenced in the Regulations as the Department's authority has changed as the result of the Law change, so the definition was added.

Processing

Changed to reflect non-consumable as referenced above

Processor

Referenced in the regulations, therefore defined

Prohibited Variety

Reference in the regulations, therefore defined

Remediate or Remediation

The USDA final rule added this allowance as a means to allow a licensee an option for non-compliant hemp. It is referenced in the regulations, therefore defined

Research Institution

Allowance given in USDA final rule. Referenced in regulations, therefore defined

Seed Producer

Referenced in the regulations, therefore defined

Variety

Further define term to add growth habit as a descriptor of a variety

1305. Licensing

A. Changes contract carrier to handler's license

1307. Seed Producer License

D.2 Adds requirement for proof of identification for applicant

D.4.e Removes the key participant requirement

1309. Grower License

B. Redefines the authority of the grower license to exclude handling and restrict marketing of unprocessed plant parts grown under the grower's license

C.2 Adds requirement for proof of identification for applicant

C.4.e Removes the key participant requirement

1311. Processor license

A. Restricts licensee to processing non-consumable industrial hemp only

C. Adds requirement for proof of identification for applicant

C.2.e Removes the key participant requirement

1313. Handler License

Title Change - Changes the name of a Contract Carrier license to a Handlers license to reflect the new proposed license

A. Changes the contract carrier to handler's license

B. Outlines and expands the regulated activities allowed under the handler license

C.1 Adds requirements for proof of identification for applicant

C.2.e Removes the key participant requirement

C.3. Adds the requirement of licensee to provide additional information that was not previously required on the contract carrier license

1315. Criminal Background check

A. Changes contract carrier to handler

B. Removes the key participant requirement

F. Expands to allow a Designated Responsible Parties to all license types

1317. Licensing and Testing Fees

A. Changes contract carrier to handler

1319. Requirements for Seed Producers and Growers

D. and E. Redefine planting reports to require commercial growers and seed producers growing true seed to submit a 1st Report of Planting; vegetative stock producers to require quarterly planting reports

G. - L. Amend lettering

Proposed F. – Expands harvest window from 15 days to 30 days as a result of USDA final rule

1321. Seed Acquisition and Approval

B.2.a. Changes reference to THC concentration level to align with the hemp law

E.1. Provides guidance and approval process to allow uncertified seed

1323. Land Use Restrictions

A. Further defines what is considered a residential structure

B. Expands current outdoor activity restrictions to all licensees

1327. Prohibitions

A. 11-12. Previously adopted but omitted from the code; adding back to regulations

A.19. Prohibits licensees from adulterating industrial hemp rendering it non-compliant

Subchapter F. Reporting, Research, and Record-Keeping

Heading change – add Research

1330. Industrial Hemp Research

A. – J. Section entered as a result of the USDA Final Rule and Hemp Law allow research, outlining the requirements of the plan and restrictions for research production.

1331. Records

B. and C. More clearly defines the required documentation for transporting industrial hemp or industrial hemp plant parts.

Subchapter G. Inspections

Remove heading

1333. Site Access and Compliance

A. Removed redundant statement and gives LDAF authority to sample hemp if a violation is suspected

Subchapter H. Sampling, Testing, Remediation, and Destruction

Heading Change to include Remediation

1335. THC Sampling and Testing

A. Clarifies the requirement that all hemp shall be testing according to regulations.

C.1. Splits Harvest/Destruction report into two separate forms

C.6. Identifies Department as LDAF

C.8. Extends the post-harvest sampling date from 15 to 30 days; aligns regulations with hemp law

D.1 – 3. Gives guidelines and restrictions on performance-based sampling to align with USDA final rule

E.6. Changes the name of the official analysis report to notification of analysis; aligns with actual name of the report

E.7. Allows for a resample of harvested material post remediation

1337. Remediation and Destruction

Title change

A.- E. Identifies remediation methods

1341. Corrective Action Plan for Negligent Violations and Mandatory Reporting

A. Authorized LDAF to destroy any hemp being grown negligently

A.3. Identifies a negligent violation as hemp containing more than 1.0% THC on a dry weight basis

F. Restricts state agencies to issuing one negligent violation per growing season

Motion to allow the Commission, in an advisory capacity, to recommend the Commissioner to adopt the Industrial Hemp Regulations in their entirety as presented was made by Dr. Philip Elzer and seconded by Mr. Travis Walker. Motion passed unanimously.

PUBLIC COMMENT

No public comment

ADJUDICATORY HEARING

Mr. Todd Parker turned over the meeting to the hearing officer, Ms. Alicia Wheeler, Assistant Attorney General with the Louisiana Department of Justice.

Seed Program Division Cases

Stipulated Cases

Case SD 21-01 Helena Agri-Enterprises, LLC

Helena Agri-Enterprises, LLC was charged with one violation of the Louisiana Seed Law for various violations for seed lots found to contain low germinating seed as confirmed by LDAF's Laboratory analysis.

Ms. Paeton Burkett 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 and seed notice of violations. LDAF 2: signed, witnessed and notarized stipulations between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Hundred Dollars (\$500.00) for the violations, with one-half of the penalty suspended for a probationary period of one year, contingent on payment of the penalty within 30 days.

Motion to accept the stipulation letter as the findings, facts and conclusions of law, and to accept the recommended total reduced penalty of Two Hundred and Fifty Dollars (\$250.00) was made by Mr. Greg Gravois and seconded by Mr. Ed O'Neal. Motion passed unanimously.

Case IH 21-01 Ken Falgoust

Ken Falgoust was charged with one violation of the Louisiana Industrial Hemp Law for failing to keep and provide official records as requested by LDAF staff.

Ms. Paeton Burkett 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, subsequent hand-delivery signed by respondent and seed notice of violations. LDAF 2: signed, witnessed and notarized stipulations between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Five Hundred Dollars (\$500.00) for the violation, contingent on payment of the penalty within 30 days.

Motion to accept the 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. David Causey and seconded by Mr. Todd Parker. Motion passed unanimously.

Case IH 21-03 Christopher Hansche

Christopher Hansche was charged with six violations of the Louisiana Industrial Hemp Law for failure to comply with reporting and sampling requirements of the Louisiana Hemp Law.

Ms. Paeton Burkett 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 and seed notice of violations. LDAF 2: signed, witnessed and notarized stipulations between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Three Thousand Dollars (\$3000.00) for the violations, with one-half of the penalty suspended for a probationary period of one year, contingent on payment of the penalty within 30 days.

Motion to accept the stipulation letter as the findings, facts and conclusions of law, and to accept the recommended total reduced penalty of One Thousand, Five Hundred Dollars (\$1500.00) was made by Mr. Todd Parker and seconded by Mr. David Causey. Motion passed unanimously.

Case IH 21-02 John Liautaud III

John Liautaud III was charged with four violations of the Louisiana Seed Law for failure to comply with seed acquisition and producing hemp on unregistered sites.

Ms. Paeton Burkett 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 and seed notice of violations. LDAF 2: signed, witnessed and notarized stipulations between the LDAF and Respondent. Ms. Alicia Wheeler, hearing officer, accepted the evidence as presented.

The Seed Programs Staff recommended a penalty of Two Thousand Dollars (\$2000.00) for the violations, with one-half of the penalty suspended for a probationary period of one year, contingent on payment of the penalty within 30 days.

Motion to accept the stipulation letter as the findings, facts and conclusions of law, and to accept the recommended total reduced penalty of One Thousand Dollars (\$1000.00) was made by Mr. David Causey and seconded by Mr. Travis Walker. Motion passed unanimously.

PUBLIC COMMENTS

No public comments

ADJOURNMENT

Motion to adjourn the meeting was made by Mr. Ron Harrell and seconded by Dr. Philip Elzer. Motion passed unanimously.