

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of the Commissioner

Medical Marijuana Program
(LAC 7:XLIX.101, 501, 525, 701, 907, 1101,
1505, 1701, 1711, 2501, 2901, and 2903)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 40:1046, the Commissioner of Agriculture and Forestry declares an emergency to exist and amends by emergency process the attached regulations for the handling, testing analyzing medical marijuana or product in its laboratory.

To define and clarify terms essential to LAC 7:XLIX and the Medical Marijuana Program, these emergency provisions include additional definition of terms. These amendments further provide for regulations regarding the wearing of identification badges while working near plants and/or during processing; how to pay fees; make electronically stored media and card access records available to department; inspector responsibility; who is permitted in restricted area; surveillance shall be in operation 24 hours 7 days a week; camera shall magnify at entrance and exits; security system shall be provided to department via secured web-based portal; transportation manifest and labeling and packaging approved by department.

This Emergency Rule becomes effective upon the signature of the Commissioner and shall remain in effect for 120 days, unless renewed or until permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XLIX. Medical Marijuana

Chapter 1. General Provisions

§101. Definitions

A. - B. ...

Immature Plant—a nonflowering Medical Marijuana plant that is no taller than eight to ten inches produced from a cutting, clipping or seedling.

Inspector—LDAF employee designated by the department to carry out an inspection under this Title.

Processing—any method used to prepare marijuana or its by products for commercial use, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

Research Facility—Louisiana State University Agriculture Center Research Facility and Southern University Agriculture Center Research Facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1251 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 5. License and Permits

§501. Procedure for Issuing the License

A. ...

B. R.S. 40:1046 entitles the Louisiana State University Agricultural Center and the Southern University Agricultural

Center to the right of first refusal to be licensed as the production facility. This entitlement carries a presumption of suitability and accordingly, the following Sections of this Chapter pertaining to licensing shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center: §§505, 507, 509, 513.A, 515.A, 517, 519.A.3, 521, 701.A.

C. The presumption of suitability does not apply to any producer or subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1254 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

§525. Display of Identification Badge

A. ...

B. The permittee's identification badge may be placed in clothing only when working near plants and during processing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 7. Fees

§701. Fees

A. The licensee shall submit the following non-refundable fees with each license and permit, in the form of a certified check, J4, or money order payable to Louisiana Department of Agriculture and Forestry.

1. The license fee of \$100,000 shall be payable to the department upon issuance of the license and annually thereafter.

2. The fee for a permit shall be \$100 annually.

B. A fee in an amount not to exceed 7 percent of gross sales shall be paid quarterly to the department.

C. All fees collected by the department pursuant to this Section shall be collected from the licensee and shall be used to fund expenses relating to the regulation and control of the medical marijuana program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1256 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 9. Compliance and Inspections

§907. Inspections and Observations

A. ...

B. A licensee shall, upon request, immediately make available for inspection by the department all papers, documents, electronically stored media, books, records and electronically stored card access records used in the licensed operations.

C. - E.5. ...

F. Upon findings of an inspection, the inspector may:

1. suspend the distribution of some or all medical marijuana from the licensed or registered premises;

2. order immediate evacuation of the premises and seal the entry door; or

3. quarantine some or all medical marijuana;

G. An inspector shall:

1. prepare a report of:

- a. the observations and findings of the inspection; and
 - b. any suggestions or demands for corrective action;
2. deliver a copy of the report to the inspected entity and obtain a receipt for the delivery; and
 3. if possible, discuss the inspection and inspection report with the licensee.

H.1.If an inspection report contains a suggestion or demand for corrective action, within five business days from the delivery of the report, the inspected entity shall:

- a. respond in writing to every suggestion or demand for corrective action; and
- b. set forth the plan for corrective action to be taken and the timetable for correction shall be 10 business days unless a written request for an extension is obtained.

2. failure to correct the violation will be subject to a fine of \$1,000.00 for each violation per day until paid.

3. failure to pay the violation within 30 days may result in suspension of license and a hearing before the hearing officer.

I. Upon request by the inspector, the video recording during the period of a violation of an observation of video recording shall be duplicated and provided to the department.

J. If an inspector finds evidence of operational failures or conditions that create a likelihood of diversion, contamination, or the risk to public health, an inspector may direct that the licensed premises may not distribute or participate in the distribution of any medical cannabis until the violation has been corrected and the premises pass re-inspection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1257 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 11. Internal Controls

§1101. Internal Control for Production Facility

- A. - B.3.q. ...
 - r. procedures and records relating to all transport activities;
 - s. other information requested by the department; and
 - t. emergency procedures for outages.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1258 (July 2017), LR 45:

Chapter 15. Production Facility

§1505. Restricted Areas

A. Only permittees, law enforcement while in the course and scope of their duties, LDAF authorized inspector(s) and the department authorized representative(s), may enter restricted areas except as otherwise provided herein. The licensee shall implement procedures to ensure compliance with this Section.

1. Laboratory authorized staff may enter restricted areas for the sole purpose of identifying and collecting marijuana samples for the purposes of conducting laboratory testing;

2. Emergency personnel may enter restricted area when necessary to perform their duties;

3. Upon 24 hour written notice to the department, a production facility may allow contractors with a state issued photo identification card, to enter restricted areas when they are working on a job unrelated to medical marijuana, such as installing or maintaining security devices or performing electrical wiring; and

4. Upon 24 hour written request, with approval from the department, other persons with a state issued photo identification card, may be permitted to enter the production facility.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 17. Surveillance and Security

§1701. Required Surveillance Equipment

A. The licensee shall install a surveillance system on the entire premises of the production facility which shall be operational 24 hours, seven days a week. The surveillance system shall meet or exceed specifications established by the department and provide access to the department at all times.

B. ...

C. All cameras at the entrances and exits to the production facility shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers, ID tags, and facial and body images.

D. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1262 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

§1711. Security Alarm System

A. - B. ...

C. The electronic security system shall be available 24 hours per day, 7 days per week, to the department via a secure web-based portal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1263 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 25. Transportation

§2501. Transportation

A. Prior to transporting an immature plant from a research facility, a shipping manifest shall be made in LMMTS.

B. The licensee or its authorized permittee shall only be allowed to transport medical marijuana or product to the following locations:

1. from its production facility to dispensaries;
2. from its production facility to a laboratory for testing or research; and
3. when a specific non-routine transport request from the licensee is approved in writing by the department.

C. The licensee or its authorized permittee shall:

1. have a valid Louisiana driver's license and be insured above the legal requirements in Louisiana; and
2. be capable of securing (locking) medical marijuana and product items during transportation.

D. Prior to transporting medical marijuana or product, a licensee shall generate a transport manifest, utilizing LMMTS, that accompanies every transport of medical marijuana or product. Such manifests shall contain the following information:

1. the name, contact information of a licensee authorized representative, licensed premises address, and the authorized permittee transporting the medical marijuana or product;

2. the name, contact information, and premises address of the marijuana pharmacy or laboratory receiving the delivery;

3. medical marijuana or product name and quantities (by weight or unit) of each item contained in each transport, along with the requisite unique identification number for every item;

4. the date of transport and time of departure;

5. arrival date and estimated time of arrival;

6. delivery vehicle make and model and license plate number; and

7. name and signature of the authorized permittee accompanying the transport.

E. Only the licensee, its authorized permittee or a receiving marijuana pharmacy may transport medical marijuana or product from the production facility. Transport manifest shall correctly reflect specific inventory in transit in case of multiple dispensaries delivery in a single trip.

F. Transport manifests shall be available for viewing through LMMTS, to the marijuana pharmacy, laboratory for testing, and the department before the close of business the day prior to transport.

G. The licensee or its authorized employees shall provide a copy of the transport manifest to law enforcement if requested to do so while in transit.

H. An authorized employee of the marijuana pharmacy or approved laboratory for testing shall verify that the medical marijuana or product are received as listed in the transport manifest by:

1. verifying and documenting the type and quantity of the transported medical marijuana or product against the transport manifest; and

2. returning a copy of the signed transport manifest to the production facility.

I. A receiving marijuana pharmacy or approved laboratory for testing shall separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in LMMTS and in any relevant business records.

J. The licensee shall ensure that all medical marijuana, plant material, or product transported on public roadways is:

1. only transported in a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana or product, or in a locked storage container that has a separate key or combination pad;

2. transported so it is not visible or recognizable from outside the vehicle; and

3. transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical marijuana or bears the name or logo of the licensee.

K. Authorized permittees who are transporting medical marijuana or product on public roadways shall:

1. travel directly to the marijuana pharmacy or laboratory testing facility; and

2. document refueling and all other stops in transit, including:

a. the reason for the stop;

b. the duration of the stop;

c. the location of the stop; and

d. all activities of employees exiting the vehicle.

L. Every authorized permittee shall have access to a secure form of communication with the licensee and the ability to contact law enforcement through the 911 emergency systems at all times that the motor vehicle contains medical marijuana or product. If an emergency requires stopping the vehicle, the employee shall report the emergency immediately to law enforcement through the 911 emergency systems and the licensee, which shall immediately notify the department. The employee shall also complete an incident report form provided by the department.

M. The licensee shall ensure that all delivery times and routes are randomized.

N. Under no circumstance shall any person other than a designated permittee have actual physical control of the motor vehicle that is transporting the medical marijuana or product.

O. The licensee shall staff all transport motor vehicles with a minimum of two employees. At least one employee must remain with the motor vehicle at all times that the motor vehicle contains medical marijuana or product.

P. A permittee shall carry his permittee identification card at all times when transporting or delivering medical marijuana or product and, upon request, produce the identification card to the department or to a law enforcement officer acting in the course of official duties.

Q. The licensee shall ensure that a vehicle containing medical marijuana or product in transit is not left unattended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1267 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Chapter 29. Labeling

§2901. Labeling Requirements

A. Each product produced for sale shall be registered with the department on forms provided by the department for approval. Each product, as approved by the department, shall be labeled by the licensee prior to sale to a marijuana pharmacy. Each label shall be securely affixed to the package and shall include:

A.1 - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1269 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

§2903. Packaging Requirements

A. - C.4. ...

D. All packaging shall be approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:1270 (July 2017), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 45:

Mike Strain DVM
Commissioner

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