

Minutes

October 8, 2014

N. C. Board of Agriculture

Casey M. Armstrong	Kirk Mathis
Maurice K. Berry, Jr.	Mark Peters
Doug Boyd	Bert Pitt
Tommy Burlison	Robert Sutter
John William Carter, III	Jeffrey Turner
William Johnston	

Steve Troxler, Chairman

Table of Contents

Call to Order

State Fair Preview

Approval of Minutes from July 9, August 4, and September 27, 2014

Proposed Rules – Food and Drug

HB 74: Periodic Review and Expiration of Existing Rules

Rulemaking Petition from the Animal Legal Defense Fund

Peak-Season Start Date Change

Other Business

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The October 8, 2014 Board of Agriculture meeting was held in Raleigh, NC at the Joint Force Headquarters. Commissioner of Agriculture Steve Troxler called the meeting to order at 2:13 p.m. and read the Ethics Reminder. Zane Hedgecock opened the meeting with prayer. The following Board members were present: Casey Armstrong, Maurice Berry, Doug Boyd, Tommy Burleson, Billy Carter, Billy Johnston, Kirk Mathis, Bert Pitt, and Bob Sutter. Jeff Turner joined the meeting by phone.



After welcoming everyone to the meeting, Commissioner Troxler called on Wesley Wyatt, Manager of the NC State Fair, to give a preview of the upcoming fair that will run October 16 – 26. Mr. Wyatt invited everyone to attend the fair and discussed some of the things that have change including the Junior Livestock Sale of Champions. New at the fair this year is an “Ag Today” exhibit featuring Unmanned Aerial Vehicles and their benefit to farming and NCSU research. There will also be a World War I Exhibit in Dorton Arena, a Bayer CropScience presentation on bee health, and a Got to be NC tent with an expanded focus on North Carolina seafood.



Commissioner Troxler then called for approval of the minutes from the July 9, 2014; August 4, 2014; and September 17, 2014 meetings.

Kirk Mathis made the MOTION to approve the minutes as presented. The motion was seconded by Bert Pitt and carried by unanimous vote.



Joe Reardon, Assistant Commissioner, was then called upon to go over proposed amendments to a rule pertaining to shell eggs. Six comments were received from small producers requesting that the rule be clarified to exempt producers selling directly from their farms. This change was included in the final language presented to the Board for final adoption.

Upon MOTION by Kirk Mathis, and second by Maurice Berry to adopt the rule as presented, discussion ensued on the options available for cracked eggs.

After a question from Tommy Burleson, Richard Hoyle, Department of Agriculture employee, explained that there is an option for producers to donate eggs to food banks, which are regulated under the United States Department of Agriculture.

After continued discussion regarding cracked eggs, Kirk Mathis MOVED that the Board vote on final adoption of the rule. The motion was seconded by Doug Boyd and passed by unanimous vote.



Bob Braswell, a Food and Drug Protection Division employee, addressed the Board regarding a change in the Federal Food and Drug Cosmetic Act that provides for the establishment, registration and regulation of voluntary outsourcing facilities that are engaged in the compounding of sterile drugs.

Due to this change, the Food and Drug Protection Division is seeking approval from the Board to move forward with the rulemaking process that will amend rule 02 NCAC 09M .0101 Manufacturing Registration, to include the new federal requirement.

Bob Sutter made the MOTION to move forward with the rulemaking process. The motion was seconded by Bert Pitt. With no further questions or discussion, the motion passed unanimously.



Commissioner Troxler then called on Chrissy Waggett, the Department's Rulemaking Coordinator, to go over the rules reports required from House Bill 74. Ms. Waggett explained that the Board had previously adopted the reports and their initial classifications at the July 9 Board meeting. The reports had been through a 60-day comment period where no comments were received on the rules.

A total of 182 rules were reviewed. Of that total, 8 were deemed unnecessary, 67 were classified as "necessary with substantive public interest," and 107 were classified as "necessary without substantive public interest." There were no changes to the classifications and the Department requested that the Board adopt the final agency determination.

Ms. Waggett explained that after adoption of the reports, they will be reviewed by the Rules Review Commission on January 15, 2015 and then reviewed by the Administrative Procedures Oversight Committee at the General Assembly before becoming final. At that point, unnecessary rules will be deleted from the code, those classified as "necessary without substantive public interest" will remain with no further action, and the 67 classified as "necessary with substantive public interest" will have to go back through the rulemaking process.

The MOTION was made by Kirk Mathis to adopt the 18 reports as presented with the final agency determinations. The motion was seconded by Bob Sutter. After no further discussion, the motion passed by a unanimous vote



The next item on the agenda was consideration of a rulemaking petition from the Animal Legal Defense Fund (ALDF). Tina Hlabse, the Department's General Counsel, explained that the petition was received in May, however, the Department did not feel it was appropriate to consider their request at the July Board meeting since it had been proposed as part of the budget process to move the Animal Welfare Section from the Department.

Now that the budget has passed and the section remains with the Department, the petition to amend our euthanasia regulations to more specifically prohibit euthanasia by carbon monoxide gas is before the Board. The ALDF asserts that the current language of "approved" is ambiguous and should be more specific. The Board has three options under General Statute. It can deny the petition for rulemaking, accept the petition for rulemaking, or take the petition under advisement.

Mr. Amat Makker, on behalf of ALDF, addressed the Board concerning the petition. Mr. Makker explained to the Board that when the Animal Welfare rules were adopted in 2009, the AVMA said euthanasia by carbon monoxide was an acceptable way of euthanasia. Since then, the AVMA has revised its position. ALDF asserted that granting the petition would bring the NC rules in line with what other states are doing, and would be cost-effective for the shelters in North Carolina.

There was discussion among Board members, and representatives from ALDF about what is considered acceptable and what is inhumane. There was also discussion regarding the budget situations of county animal shelters and how that might effect their decisions to use carbon monoxide gas as a means of euthanasia. Kirk Mathis recommended that the Board take the petition under advisement until it had more time to consider the matter.

The MOTION was made by Kirk Mathis to go into executive session and consult with the Attorney General's office. Jeff Turner seconded the motion, which carried unanimously. The Board went into executive session at 3:00 pm.

The Board came back from executive session at 3:33 pm. At this time, Tina Hlabse reviewed the Board's options one more time.

Kirk Mathis made the MOTION to take the petition under advisement and requested that the Veterinary Division report back to the Board at the next meeting on the practices of euthanasia in North Carolina. This motion was seconded by Billy Johnston. With no further discussion, the motion passed by unanimous vote.



Colleen Hudak-Wise, with the Agronomics Division, came before the Board to seek a change to the Peak Season start date. Ms. Hudak-Wise asked the Board to set the dates for November 26, 2014 – March 31, 2015. The request is to start a day earlier than last year in order to avoid starting on Thanksgiving and to allow staff time to get some samples in.

Answering a question from Bob Sutter, Ms. Hudak-Wise mentioned that Agronomics bought a new pH computer and hired a new chemist with the money it had taken in as a result of this peak season charge. David Smith, Chief Deputy Commissioner, mentioned that the new

initiative NC GEAR wants to highlight are areas where agencies have shown efficiencies and this is one area to mention.

Billy Johnston made the MOTION to set the peak season dates as November 26, 2014 – March 31, 2015. The motion, seconded by Tommy Burlison, had no further discussion, and passed by a unanimous vote.



Having concluded the business set forth on the agenda, Commissioner Troxler called for any other business or any other comments from the public. There was no further business or comments. A MOTION was made by Kirk Mathis to adjourn. The motion, seconded by Bert Pitt, passed unanimously. The meeting adjourned at 4:00 p.m.

Recorded and Prepared by:
Christina L. Waggett

Adopted by the Board this 14th day
of January, 2015.

Steven W. Troxler
Commissioner of Agriculture
Chairman

Tina Hlabse
Secretary