

Minutes

February 26, 2013

N. C. Board of Agriculture

Casey M. Armstrong

Kirk Mathis

Maurice K. Berry, Jr.

Mark Peters

Jean J. Boseman

Elbert R. Pitt, Jr.

William F. Johnston

Larry Sampson

C. Osmond Kearney, Jr.

Jeffery B. Turner

Steve Troxler, Chairman

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Proposed Rules

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The Board of Agriculture meeting on February 26, 2013 was held in the Agronomics Conference Room at the Donald W. Eddy Building. Commissioner of Agriculture Steve Troxler called the meeting to order at 2:05 pm and read the Ethics Reminder. The following Board members were in attendance: Maurice Berry, Mark Peters, Casey Armstrong, Billy Johnston, Larry Sampson, and Jean Boseman. Kirk Mathis joined the meeting by phone. Jeff Turner tried to call in but was unable to attend via phone due to issues with the conference line.



The Commissioner then asked each of the Board Members and everyone in attendance to introduce themselves. After introductions, the Commissioner informed the Board that Assistant Commissioner Howard Isley is retiring and Joe Reardon will take his place effective March 1, 2013. He also introduced Scott Bissette as the new NC Forest Service Assistant Commissioner. The Commissioner noted that his Executive Staff is changing rapidly as Human Resources Director, Ben Harward is also retiring, and Sylvia Crumpler will be the new HR Director.



The first official agenda item was the approval of the minutes from the January 25, 2012 meeting. Maurice Berry MOVED that the minutes be approved, which was seconded by Larry Sampson.

Assistant Commissioner David McLeod presented the Ethics Evaluation and Noting Potential Conflicts for the Record.



Commissioner Troxler called on Ron Perry from the NC Small Grain Growers Association to present their Referendum Request. The NC Small Grain Growers are requesting to hold a referendum on all Small Grains grown in North Carolina. These include Wheat, Oats, Rye, barley, Grain Sorghum and Rape/Canola. The assessment would be collected at the rate of .005 of the total money received from the sale of the mentioned grains beginning January 1, 2014 for six years, ending December 31, 2019.

Billy Johnston made the MOTION, which was seconded by Jean Boseman, that the referendum be accepted. The motion carried unanimously.



Ron Moore with the Department's Marketing Division then presented a request to increase ticket prices at the NC Mountain State Fair. The prices would become effective July 1, 2013 and take effect for the 2013 Mountain State Fair. The last increase in ticket prices was 2010.

Casey Armstrong made the MOTION to approve the request. The motion was seconded by Larry Sampson. In answering a question from board member, Ron Moore noted that the ticket price increase would bring about \$120,000 in gross revenue.

Ron Moore also presented a second request for approval of the Daily Rental Fee for the Davis Event Center at the WNC Agricultural Center. There was not a formal daily rental rate on record. Ron requested the current rate of \$2,700 per day or 12% of gross ticket sales, whichever is greater, be formally approved for the Daily Rental Fee. The Commissioner added that he believes this would be a worthy adjustment.

Maurice Berry made the MOTION to approve the request. The motion was seconded by Casey Armstrong.



The Commissioner then called on Food and Drug Director, Dan Ragan to present on several proposed rules. Dan asked that the Board approve the adoption of three additional sections of the Code of federal Regulations in order to update gaps in the regulatory foundation at the Food & Drug Protection Division.

The first rule, 21 CFR 115- Refrigeration of Shell Eggs at Retail Establishments, would harmonize North Carolina's food regulatory program regulations with already existing federal regulations. NCDA&CS currently enforces the North Carolina Egg Law (Article 25A.) which defines requirements for the production and marketing of Shell Eggs. The law does not define temperature requirements for the storage of Shell Eggs.

North Carolina Administrative Code 02 NCAC 43H.0104 defines the proper holding environment (temperature) for Shell Eggs. Those requirements state a pre-grading and packing holding temperature of 60 degrees F. and a post-grading and packing holding temperature requirement of 45 degrees F. The pre-grading and packing temperature of 60 degrees F has been pre-empted by FDA 21 CFR 118 with a temperature of 45 degrees F or less thus making 02 NCAC 43H.0104(b) invalid as written.

The second rule, 21 C.F.R. 118: Production, Storage, and Transportation of Shell Eggs was implemented by the FDA in July 2010 as a new regulation for the Shell Egg industry. The purpose was to reduce the occurrence of Salmonella Enteritidis (SE) in Shell Eggs. The regulation established preventive measures requirements that must be met by industry with regard to the sourcing of pullets, biosecurity at the farm, pest control, cleaning and disinfection of the facility and equipment, sampling of the environment at certain points in the life cycle of the flock, and refrigeration of eggs prior to grading and packaging. The regulation set the

requirement of pre-grading and packing holding temperatures at 45 degrees F or less within 36 hours from the time that the eggs were laid.

Currently, State regulatory personnel do not have authority to address violations of 21 CFR 118 under the powers granted by their North Carolina state credentials. Any activities conducted by State regulatory personnel must be at the direction of FDA and under FDA credentials.

The third rule, 21 CFR 1.326 – 1.368: Establishment, Maintenance, and Availability of Records requires that establishments involved with the production, storage or distribution of food maintain records of the immediate previous source of those food or food products, and the immediately subsequent recipient of the food or food products. These requirements currently exist under Federal regulations. NCDA&CS personnel must utilize their Federal credentials during investigations when conducting investigative reviews of these records.

Dan also asked the Board to approve an update to 02 NCAC 09F: Internal Combustion Engine Antifreezes. NCDA&CS Food and Drug Protection Division currently regulates the physical and chemical requirements for antifreeze sold in North Carolina. Current testing requirements were established in 1976. Since then, changes in the industry standards have occurred requiring updating of the testing requirements. This revision will bring North Carolina regulations in line with current and widely accepted industry standards.

Dan reiterated that Food & Drug wants to adopt these rules as part of an ongoing effort to implement the Manufactured Food Regulatory Program Standards, which is an FDA initiative that ensures state and federal food safety standards are equivalent and integrated. NCDA&CS Food and Drug Protection Division have been awarded funding in excess of 2.75 million dollars over the last five years to assist in this task. States receiving FDA contract and grant funds are expected to demonstrate equivalent state-granted authorities. Failure to show regulatory equivalency with FDA regulations may threaten this federal funding.

Kirk Mathis made the MOTION to approve the adoption of three additional sections of the Code of federal Regulations. The motion was seconded by Larry Sampson.

The Commissioner added on by discussing the FDA listening session that occurred on February 20, 2013. He noted that the comment period runs through May 16, 2013 and everyone should try their best to be compliant with rules. Dan noted that the new rules will most likely not be effect for at least 2 years.



Chief Deputy Commissioner, David Smith then presented on the 2012 State Fair. There were no major issues to report on. New safety measures were instituted this year preventing visitors from having contact with animals. David said the Department worked closely with the Wake County Health Department to ensure the safety and wellbeing of fair visitors. David also reported that the NC State Vet School lot may not be available for parking for the 2013 State Fair increasing the need to encourage visitors to use mass transportation such as the State Fair buses.

In addition, David Smith discussed the improvement taking place on the Fairgrounds. Fifty spaces were added to the RV campground, improvements were made to the horse complex, and the Administration office is under renovation. There will be additional livestock trailer parking and improved livestock wash pits for the upcoming State Fair.

For the 2013 State Fair, the Commissioner stated he would like to encourage online ticket sales by using a \$1 discount for online ticket purchases. This will help decrease lines at the ticket sales gates and allow people to enter the fair more quickly. David Smith reported that 93,000 tickets were sold on the State Fairgrounds last year.

The Commissioner said he believes the State Fair and Mountain State Fair are a good value. He cares about safety at the Fair but also that people are enjoying it. He has high expectations and wants to continue to hit the 1 million visitors mark.

With the new safety procedures in place the Commissioner received feedback that some people thought the Department went overboard with the new procedures. However the Commissioner stated his goal is to keep children and other fair visitors safe. He has found that animal owners at the Fair like the implementation of the new rules.

The Commissioner thanked the Attorney General's office for their work in the 2004 E. coli case. They have won the case twice, but it is not settled. North Carolina is the only state that has won an E. coli case.

Board member Casey Armstrong asked if the theme for the 2013 State Fair had been set. The Commissioner and Brian Long said the theme had not been set.



The Commissioner then called on Plant Industry Director, Vernon Cox to present the request to classify *Arundo Donax* as a Noxious Weed. On June 25, 2012 the Plant Industry Division received a petition signed by Environmental Defense Fund, American Rivers, NC Coastal Land Trust, NC Conservation Network, NC Wildlife Federation and the NC Chapter of the Nature Conservancy requesting that *Arundo Donax* be listed as a noxious weed in North Carolina pursuant to the N.C. Plant Pest Law at Article 36, Chapter 106 of the NC General Statutes and subject to the associated regulations governing State Noxious Weeds at 02 NCAC 48A .1700. The petition indicated that the reason for the petition is related to plans to construct a 20 million gallon/year cellulosic ethanol plant in Clinton. One of the primary feedstocks is expected to be *Arundo Donax*.

Vernon provided background and characteristic information on *Arundo Donax*. It is a perennial grass species that can produce large quantities of biomass that is being proposed as a feedstock for biofuel production (cellulosic ethanol). The NC Native Plant Society lists *Arundo donax* as a category 3 invasive on a scale of 1 – 3, where category 1 is classified as “Severe Threat”, category 2 is classified as “Significant Threat” and category 3 is classified as “Lesser Threat”.

Vernon and other plant specialists from around the state traveled to Duplin and Johnston counties to take pictures of Arundo Donax. He presented the pictures in a slide show at the Board Meeting.

After Vernon's presentation, Board Member Kirk Mathis asked if Round-up can kill Arundo Donax. Vernon stated that with a 3-5% Roundup solution there was no re-sprouting.

Board member Larry Sampson asked what herbicides can be used to stop certain parts of this weed from growing. Vernon replied that this was not an issue yet.

Board member Jean Boseman asked how many years it takes to harvest after planting. Vernon responded that it's harvested every year, and it is a perennial.

Vernon re-stated the definition of a Noxious Weed is *Any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health.* He stated that Arundo Donax does not meet this definition, and is not on the federal Noxious Weed list.

Vernon asked the Board of Agriculture to pass that Arundo Donax not be listed as Noxious Weed in NC.

Commissioner Troxler then asked if anyone would like to comment on the Noxious Weed request. Maggie Monast from the Environmental Defense Fund noted that all of the petitioners submitted a follow-up letter noting that the letter might be denied. Vernon replied that the letter is in the packet submitted to the Board.

Steven Burke, CEO of the Biofuels Center said they are working to bring a large new sector to landscape and commended the Commissioner and staff for their work on the issue.

The Commissioner reiterated the request to the Board, stating they are being asked to deny the request to classify Arundo Donax as a Noxious Weed.

Kirk Mathis made the MOTION that the Board of Agriculture deny the request. The motion was seconded by Maurice Berry and passed by unanimous vote.

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Commissioner Troxler then introduced Governor Pat McCrory's Advisor on Jobs & the Economy, Blannie Cheng who is working on policy issues to further economic development in the State.

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Lastly, the Commissioner called on Joy Hicks to give an update on Legislative issues. Joy discussed the 2013-2014 General Assembly makeup, and stated this year is the largest class of freshmen.

The Governor's budget will be release in mid-March 2013. The Department is anticipating they will be asked for a 2% cut. The priorities of the Department are the continuation of funding for the Agricultural Water Resources Assistance Program (AgWRAP), the Southeastern NC Agricultural Events Center (SENCAC), and the Wine & Grape Council. The Department would like to expand the budgets for Research Stations, Marketing, and the NC Forestry Service. The Department will be asking for an additional \$250,000 for the operational reserve for the SENCAC and an additional \$1 million for Marketing. The Department didn't have enough funds for the NC Forest Service and will be asking for \$1.2 million.

The Commissioner emphasized that 50% of the population of NC lives in 15 counties and legislative matters are most difficult now than ever before because of redistricting and where people live.

Relating to funding, the Commissioner stated he wants to modernize our Research Stations. He wants the Department to keep up with Agricultural demand, and to meet that demand through research. He declared that Government policy has big play in Agriculture.

The Commissioner then asked for questions relating to Legislative issues. Larry Sampson discussed the financial status of the Southeastern Ag Center and Farmer's Market. He said the Commissioner has been an asset to making the center better and the local community raised \$250,000 to help with facility. Larry stated that it is important to get money to operate facility and complete project. The Commissioner replied that we have buy in from all local governments in the southeastern part of the state but need help from Governor's office and Legislature.

Casey Armstrong discussed equine events and need for more stall facilities at SENCAC.

Commissioner Troxler said running a center on non-recurring funding is difficult. Board member Larry Sampson said the Board will do whatever it takes to make it work and support the Commissioner.

The Commissioner stated that the Department made a commitment to the SENCAC, closing and selling is not happening. He's convinced the Department can get operational funds to where they're manageable.



The Commissioner congratulated Dr. Colleen Hudak-Wise on the Agronomics lab facility once again receiving the Public Sector STAR safety designation.

The Commissioner asked for any other business. Casey Anthony mentioned a shirt company that makes shirts from 100% organic cotton grown in NC. The shirts are sold at the High Cotton store in downtown Raleigh.

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There being no further business to discuss, Kirk Mathis made the MOTION to adjourn. The motion was seconded by Casey Armstrong and carried by unanimous vote. The meeting adjourned at 4:15 pm.

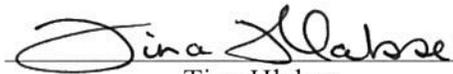
Recorded and Prepared by:

Sarah L. Pearce

Adopted by the Board this 29<sup>m</sup> day  
of August, 2013.



Steven W. Troxler  
Commissioner of Agriculture  
Chairman



Tina Hlabse  
Secretary