

DATE: June 1, 2023

TO: Grayson County Board of Supervisors

FROM: Kevin Spurlin, Agriculture and Natural Resources Extension Agent, Virginia Cooperative Extension – Grayson County

RE: Response to “Resolution Concerning Challenges Arising from Evolving Agricultural Land Usage (including Industrial-scale Commercial Pesticide Application) in Grayson County, Virginia” herein referred to as RESOLUTION

I am providing a response to the RESOLUTION presented to the Grayson County Board of Supervisors on January 12, 2023. I am doing this per my mandated role with Virginia Cooperative Extension to deliver pesticide safety education within the Commonwealth of Virginia in cooperation with the Virginia Department of Agriculture and Consumer Services (VDACS). I fully support public awareness of pesticide regulations, and a citizen's right to ask questions about practices that may potentially affect them personally and their property and possessions.

I. Overview of Existing Pesticide Regulation in Virginia

Pesticide use in Virginia is regulated federally by the US Environmental Protection Agency (EPA), and the Virginia Board of Agriculture and Consumer Services. The Board's authority is granted legislatively via the Virginia Pesticide Control Act. (Code of Virginia Title 3.2. Agriculture, Animal Care, and Food; Subtitle III. Chapter 39). **Localities do not have authority to regulate any aspect of pesticide use** (Code of Virginia section included below).

*§ 3.2-3907. Delegation of authority; exclusive authority to regulate.
The Board may delegate any authority vested in it under this chapter to the Commissioner or other employees of the Department. The Board shall have the exclusive authority to regulate pesticides in accordance with this chapter. The Board's authority to regulate pesticides under this chapter shall not be delegated to any locality.*

1989, c. 575, § 3.1-249.33; 1992, c. 289; 2008, c. 860.

Enforcement of provisions of the Virginia Pesticide Control Act is delegated to VDACS Office of Pesticide Service (VDACS-OPS). VDACS-OPS has pesticide enforcement staff across the Commonwealth. The Wytheville VDACS office houses the enforcement person covering

Grayson County. That person MUST investigate any alleged misuse, and also conducts routine inspections of licensed businesses, farms, and retail facilities that use or sell pesticides.

Such officials also enforce federal Worker Protection Standards set forth by EPA to ensure the safety of farm workers who may be exposed to pesticides during the course of their farm work. Worker Protection Standards compliance involves actions such as mandatory farm worker training, providing appropriate personal protective equipment, posting of information in critical locations to protect farm workers, and other required actions.

Virginia is a "label state" meaning that any pesticide use in violation with that product's label is a violation of the Virginia Pesticide Control Act as well as federal law. Virginia Pesticide Control Act is applied in this way consistently across the Commonwealth whether products are used on farm or off-farm (residential pest control, right-of-way, golf courses, and many others), commercial or private uses, across all business sizes, organic or conventional farm production, etc. Actions such as non-target application or exposure, for example overspraying a crop field onto an adjacent property, would be deemed illegal misuse. Accidents such as equipment malfunction or a roadway collision resulting in a spill that would endanger the public or the environment MUST be report to the authorities, and remediation actions taken immediately or as soon as safe and practical to do so.

For the purposes of clarity, the following definitions are also outlined in the Code of Virginia:

"Pest" means any deleterious organism that is: (i) any vertebrate animal other than man; (ii) any invertebrate animal excluding any internal parasite of living man or other living animals; (iii) any plant growing where not wanted, and any plant part such as a root; or (iv) any bacterium, virus, or other microorganisms (except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs as defined by the Federal Food, Drug, and Cosmetic Act at 21 U.S.C. § 321 (g)(1), and cosmetics as defined by the Federal Food, Drug, and Cosmetic Act at 21 U.S.C. § 321 (i)). Any organism classified as endangered, threatened, or otherwise protected under federal or state laws shall not be deemed a pest for the purposes of this chapter.

"Pesticide" means: (i) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, other forms of plant or animal life, bacterium, or viruses, except viruses on or in living man or other animals, which the Commissioner shall declare to be a pest; (ii) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and (iii) any substance intended to become an active ingredient in any substance defined in clause (i) and (ii).

II. Analysis of RESOLUTION

I have thoroughly considered the RESOLUTION, and offer the following insights:

- **Resolution actions 1 and 8** – Many agencies including Virginia Department of Environmental Quality (DEQ), Virginia Department of Health, Virginia Department of Agriculture and Consumer Services, Virginia Department of Forestry, Virginia Department of

Conservation and Recreation, Virginia Cooperative Extension, USDA Natural Resources Conservation Service, New River Soil and Water Conservation District, Grayson County Building Official, and Grayson County Planning and Zoning conduct soil and water quality monitoring, conservation and outreach within Grayson County. Agencies and non-profits including the New River Conservancy, Grayson LandCare, Blue Ridge Discovery Center, and others work collaboratively with regulatory agencies to raise awareness of and protect the public and the environment from a myriad of potentially harmful land use activities, including pesticide misuse.

- **Resolution action 2** – Virginia Cooperative Extension provides once-annual private water testing service for Grayson property owners. In 2023, 50 private water systems are being evaluated. While this program does not test for pesticides, the Virginia Department of General Services maintains a list of certified private labs that can test drinking water for pesticides. Virginia Cooperative Extension can work with landowners to determine what specific pesticides to test for. Public water must be routinely tested per state guidelines. Virginia Department of Health manages official private water quality monitoring for disease-causing bacterial contaminants.
- **Resolution action 3** – Virginia Department of Health provided documentation (attached) that shows Grayson County (378 cases per 100,000 population) is below the Virginia average (420.8 cases per 100,000 population) for cancer rate over the most recent 10-year data period. The most recent five-year data showed an improvement in rates (359.2 per 100,000) compared to the previous five-year data (398.2 per 100,000). In that document, Virginia Department of Health officials stated that “there was no evidence noted for a potential cancer cluster” in Grayson County.

Mapping cancer or Parkinson’s disease cases would violate health privacy laws. Even if geographical information of patients with various diseases could be obtained, that does not offer evidence of the cause of those diseases. Any inferences based solely on location ignores all potential causative factors, and could lead errors in policymaking based solely on that factor alone.

Resolution points 4 through 7 - Grayson County does not have the authority to regulate pesticide use including regulating aerial application, mandating public notification beyond what is already required, or increasing buffer requirements beyond those already enforceable by label or other federal or state laws. Questions regarding enforcement should be directed to the Compliance Director within VDACS-OPS.

In my role as County Extension Agent, who is partially funded by the Commonwealth and by Grayson County, I dedicate at least 10% of my time annually to pesticide safety education, and pest identification and treatment recommendations using research-based, integrated pest management approaches that employ best practices including non-chemical and chemical treatment options, including organic chemicals.

- **Resolution point 9** – Sharing citizen concerns with elected officials is every citizen's right.

Additional Comments:

- The RESOLUTION points to Grayson County's rural nature and historical support for agriculture, tourism, artisan and musical heritage, and outdoor recreation. Strategies outlined in Grayson County's Comprehensive Plan provide evidence of this support.
- The RESOLUTION mentions changing land uses. Census of Agriculture data for Grayson County supports the shift from historically strong dairy and burley tobacco production to Christmas trees and beef cattle.
- The RESOLUTION makes additional claims related to increased chemical use, deterioration of water quality, losses in soil productivity, and increased incidence of cancer and other diseases. No data or metrics were given to back up these claims. Data I have compiled and attached relative to cancer rates refutes one of these claims.
- The RESOLUTION mentions "industrial scale production of various crops" as a way of differentiating types of agriculture production systems of concern to the document's authors, yet this term is not explicitly defined. To reiterate, the current Virginia Pesticide Control Act does not segregate against one type of agriculture, but in conjunction with federal pesticide laws applies consistently across all forms, types, sizes, ownership structures, etc., of agricultural and forestry operations; not to mention pesticide uses in residential and public structures, rights-of-ways, athletic turf, parks, landscapes, gardens, hospitals, marine structures, bodies of water, and so forth.

III. Summary

Consideration of this RESOLUTION has brought needed discussion to the topic of agriculture production and land use concerns. I have addressed these concerns directly with individuals throughout my nearly 17-year Extension career. Also, citizen concerns have been shared on numerous occasions during listening sessions with enforcement agencies and the Grayson County Agriculture Advisory Committee. It is obvious that further public outreach is needed to describe existing regulations intended to protect citizens and the environment from pesticide misuse, while also protecting the rights of farmers, forest owners, and pesticide users of all types, who use these tools responsibly, to maintain access to those tools to support their businesses, protect their livelihoods, and their own health.

Virginia Cooperative Extension serving Grayson County welcomes questions from concerned citizens and local government officials, and pledges to support both public wellbeing and the rights of farmers to conduct their businesses in a responsible manner.