



# COMMONWEALTH of VIRGINIA

## Office of the Governor

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August 12, 2005

Dr. Lynton Land  
125 Airstrip Lane  
Post Office Box 539  
Ophelia, Virginia 22530

Dear Dr. Land:

I read with interest your letter of June 13, 2005 in which you describe your assessment of the effects of animal waste and biosolids and your analysis and concerns with the phosphorus index developed by Virginia Tech. Governor Warner has asked me to respond on his behalf to your letter to him of the same date.

Since the Department of Conservation and Recreation has not reached its conclusions concerning any modifications to this proposed regulation, I will not attempt to specifically answer all of the questions you pose as we don't yet know what will ultimately be decided. I will, however, provide you with overall thoughts concerning the agency's rationale concerning the proposed regulations.

The soil test phosphorus method was designed to assess crop response potential and does not address control phosphorus pollution of our waters. Although the method would be simple to administer, the diversity of solutions needed to accommodate the volumes of animal and human waste generated in the watershed is too great to rely on one single solution (i.e., landfilling, alternative uses, or land application).

You are correct that the previous Poultry Waste Management Act language limited phosphorus applications to crop removal in high phosphorus soils. While this Act has been amended to allow for whatever phosphorus criteria DCR ultimately adopts, the agency's current view is that in certain highly saturated soils or where transport risk of phosphorus is great, that phosphorus applications should be less than crop removal or zero. Conversely, where low risk of phosphorus transport exists due to a combination of safe phosphorus soil saturation levels and minimal runoff, erosion and leaching potential, sites may have a capacity to more safely hold excess phosphorus.

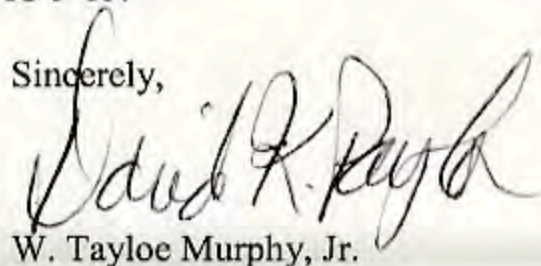
Concerning the issues you raise about the Phosphorus Index, I understand it is the method used by most states to address phosphorus losses from agricultural lands. Although the present state of knowledge is definitely not perfect, the phosphorus index structure may be viewed as an application of the best science we have at present. Additional data have been collected relating to some of the equations in the index with which you express concern. Modifications are planned to improve these equations.

I know that the Department of Conservation and Recreation is considering all of the comments received on this regulation and intends to develop responses to all comments as final regulations are published. Achieving the progress that is needed continues to be challenging in light of the diversity of viewpoints that exist.

You are exactly right that we face significant challenges to remove nutrients from the Chesapeake Bay watershed. That has been a singular focus of this Administration, and I anticipate significant progress to occur this fall in the adoption of new water quality standards, tributary nutrient strategies for the Bay tributaries, and nutrient allocation caps that will require a large reduction for both point and nonpoint sources. We expect to address the point sources through the federal/state permitting program. Agriculture, which makes up most of the nonpoint component, is currently mostly non-regulatory; however, progress is being made. The deposits to the Water Quality Improvement Fund in the last two years, and anticipated future appropriations, underscore the commitment of this Administration and the legislature to successfully clean up the Bay.

Thank you for bringing these issues to our attention and for providing me with a copy of your comments on proposed regulation 4 VAC 5-15.

Sincerely,



W. Tayloe Murphy, Jr.

WTMJr/cbd

cc: Joseph H. Maroon, Director,  
Department of Conservation and Recreation  
Jack E. Frye, Director,  
Division of Soil & Water Conservation