

**Virginia Department of Conservation and Recreation  
Public Hearing on VAC 5-15-00 et seq.  
Proposed Nutrient Management Training and Certification Regulations**

**June 9, 2005 in Fredericksburg, Virginia**

**Meeting Officer:** David Dowling  
Director of Policy, Planning and Budget  
Department of Conservation and Recreation

**Opening:**

Mr. Dowling called the public hearing on the Department's proposed Nutrient Management Training and Certification Regulations to order at the Fredericksburg City Council Chambers and explained that he would be serving as the meeting officer. He welcomed the attendees to the hearing.

Mr. Dowling thanked the City of Fredericksburg for allowing us to use this facility this evening.

Mr. Dowling requested the attendees to briefly introduce themselves.

*A list of attendees is attached.*

Mr. Dowling also introduced Russ Perkinson, the Nutrient Management Program Manager for DCR's Division of Soil and Water Conservation and Michael R. Fletcher, DCR's Director of Development. He noted that we would be audio taping our meeting and developing a set of minutes of the comments received.

Other DCR staff introduced were Christine Watlington the Policy and Budget Analyst; Jack Frye, Director of the Division of Soil and Water Conservation; Stu Wilson, Assistant Director of the Division of Soil and Water Conservation; and David Kindig, Nutrient Management Training and Certification Coordinator.

Mr. Dowling requested everyone to register on the attendance list and to indicate if they wanted to speak. He noted the sign-up lists at the back.

Mr. Dowling remarked that the purpose of the hearing is to receive input from interested citizens on the Department's proposed Nutrient Management Training and Certification Regulations during our 60-day public comment period and that on the back table, outside the door, we do have copies of the regulation, the agency background statement, and an economic impact analysis that the Department of Planning and Budget prepared on the regulation. We have also provided copies of the Virginia Nutrient Management Standards and Criteria.

He noted that the Department used the participatory approach to develop the proposal. The Department formed a Technical Advisory Committee to assist in the development of the proposed regulations. The entire action is necessary to bring the regulations and the attendant documents into compliance as may be necessary with § 62.1-44.17:1.1 of the Code of Virginia and with the requirements set forth in 40 CFR Parts 9, 122, 123, and 412 as published in the Federal Register Volume 68, No. 29, dated February 12, 2003 or as may otherwise be necessary to protect water quality.

Mr. Dowling introduced Mr. Perkinson who provided the following statement.

I would like to summarize the purpose of the proposed program. Nutrient management plans are prepared for the purpose of assisting land owners and operators in the management of the land application of fertilizers, animal manures, sewage sludges and other nutrient sources for agronomic benefits and in way that protect the Commonwealth's ground and surface waters. Nutrient application to land is agronomically necessary in many cases for the economically sustainable production of crops and for other benefits including maintenance of adequate ground cover. However, if applied at excessive rates, at improper times, or if misapplied, nutrients can be carried from the field's surface or move below the plant's root zone in soils and enter ground and surface waters where they become pollutants.

I need to emphasize that these regulations do not require farmers or other nutrient users to have nutrient management plans. However, when state laws, other regulatory programs and incentive programs require nutrient management plans, they have to meet the minimum criteria that DCR will adopt in these training and certification regulations. Examples of state programs that do require nutrient management plans include: Animal Waste VPA permits for farms with 300 or more animal units, Poultry Waste VPA permits for farms with 200 or more animal units and Virginia BMP cost-share recipients for certain practices such as animal waste storage facilities. So, to repeat, these regulations in themselves do not require farmers or other nutrient users to have nutrient management plans and those instances where they are required to have plans will not increase through this action.

The recommended rates of application for specific crops contained in the regulations are based upon Virginia Cooperative Extension, Virginia Tech, and Virginia State University recommendations. For commercial vegetable crops, the regulations adopt the Commercial Vegetable Production Recommendations published jointly by Virginia Tech, the University of Delaware, the University of Maryland, Pennsylvania State University, and Rutgers University.

The Department is proposing the modification of nutrient management plan content and required nutrient management plan procedures to address several issues that have emerged since the regulations were last promulgated in 1995 and early 1996. The proposed modifications include revised criteria capable of reducing nitrogen and phosphorus loss from land to ground and surface waters as well as other changes based on technological advances.

Modifications to phosphorus management practices are necessary to reduce water quality impacts from the land application of fertilizer, animal manure, sewage sludge, and industrial wastes. There's increased regional and national focus on management of phosphorus to reduce water quality impacts from all land-applied sources of nutrients. When the regulations were first promulgated in the mid 1990s, phosphorus was beginning to emerge as an area of significant concern with increasing scientific understanding.

Both the Virginia Poultry Waste Management Act and promulgated federal confined animal feeding regulations and associated effluent guidelines require Virginia to adopt more stringent requirements for phosphorus management standards more stringent than contained currently in the existing Nutrient Management Training and Certification regulations promulgated in the mid '90s. Other states in the Chesapeake Bay Watershed and the Natural Resources Conservation Service have also adopted more stringent phosphorus management policies.

In developing the proposed regulations, the Department sought to identify phosphorus criteria for nutrient management plans to meet several objectives. The method should: (1) protect water quality by controlling soil phosphorus concentrations or phosphorus loadings, (2) be straightforward and time efficient to apply, (3) produce consistent results when applied by different persons, (4) be relatively easy to understand and convey to farmers and other nutrient users, and (5) have the ability to be reasonably consistent or compatible with nutrient management plan software used by a number of planners in Virginia.

To provide some degree of flexibility, several alternative phosphorus management options is proposed through this action to make available to farmers and planners working with organic nutrient sources. These include: (1) the soil test method based on crop response potential, (2) the environmental threshold method, and (3) the phosphorus index method. If farmers and their planners select the phosphorus index method, two alternative methods are proposed to determine the soil loss input to the phosphorus index.

Amendments in nitrogen application criteria in nutrient management plans are primarily addressed through improved timing of land application of nitrogen-containing materials to better protect ground water from nitrate contamination and subsequent transport to surface waters. If fields are identified as environmentally sensitive in these regulations, by definition, the Department proposes that commercial fertilizer nitrogen be applied in split applied in two or more split applications during the growing season, and that organic nutrient sources be applied within 30 days of crop planting.

The Department also proposes that organic nutrient sources may be applied up to 60 days prior to crop planting on sites that are not environmentally sensitive and have an actively growing cover crop in place. The Department proposes to exempt from these timing requirements any composted organic nutrient sources having a carbon to nitrogen ratio of at least 25:1 as long as runoff control best management practices are utilized.

Additional changes include, but are not limited to, a revised listing of Virginia soils by management group and productivity group to include those soil series established since the last adoption in mid 1990s, increased expected yields for some crops, the addition of several crops and urban land uses, and addition and modification of several defined terms.

At the conclusion of Mr. Perkinson's remarks, Mr. Dowling noted his hopes that the explanation of our regulations just provided by Mr. Perkinson would address some of the questions the attendees had when they came here this evening. He noted that before receiving testimony, he would like to stress that this is an information-gathering meeting. Everyone wishing to speak will be heard. However, due to the number of individuals present he asked those wishing to speak to limit their comments to about five-minutes and try to address information that others may not have already covered, if possible. If necessary, he noted that he might ask speakers questions concerning their testimony or to request additional information concerning a subject believed to be important to the process in order to help the clarify and properly capture their comments.

Mr. Dowling began the public comment portion of the hearing and requested that those speaking should state their name and whom they represent and if they had an extra copy of their comments, we would be happy to accept it. Remarks by the speakers are as generally follows. Mr. Dowling invited each of the following speakers to the podium.

**Mr. Lewis Ashton:** Thank you. I'm Lewis Ashton from King George County and I'm representing the King George County Farm Bureau. These proposed changes kind of caught me surprise. I don't know, I guess they'd been out a little bit longer I was aware of them, so I didn't have a whole lot of time to look over this thing before I got here, but the concerns I had center around the soil types that are you consider highly sensitive, is that the right word, or How do you say that? Percolate the water pretty quick and I have a few of those type soils on my farm and I'm all grass and sod. I do not do any plowing or anything like a cattle operation and I think you are a little strict on that.

The other thing is the time frame of being able to get on some of my land. If I would have to wait short a period of time before the grass is ready to start greening up in the spring to use manure. I do have some Bermuda grass and sometimes the time frame is just so tight to be able to get on the land and I think it's a little restrictive to narrow this thing down to 30 days before application.

Farms that have confined livestock are just in a tight time frame to get their manure on timely if the weather turns against him, which is certainly a problem. All nutrient management plans must allow fertilizer applications above the regulatory threshold to assure an economically viable crop response. Tissue testing and preside dress nitrogen testing should equal the amount of additional nutrients necessary to produce an economically viable crop. I do deal with biosolids and I find that in the winter time the odor is less offensive to the neighbors who have all their windows up.

One thing I think I missed when you were naming off the states where you'd gotten together with to form some of this policy, I noticed that you didn't mention North Carolina. I think North Carolina has got a lot of similar characteristics to Virginia even though they're not in the Chesapeake Bay Watershed. Thank you.

**Mr. Hunter Richardson:** Good evening. My name is Hunter Richardson from Synagro. Synagro is North America's leading provider of beneficial use management services for municipal and industrial water and waste water treatment plants. Synagro currently serves more than 600 biosolids generators in 35 states across the United States. In Virginia, Synagro annually spreads more than three million wet tons of biosolids from 34 municipal producers. Synagro rotates applications across the permitted land base of 179,000 acres in about 39 counties, using about 1,700 acres in a typical year. Biosolids recycling is essential to meet Virginia's public health water quality and environmental goals in the face of growing population and development. Properly used biosolids improve soil quality and fertility and provide immeasurable benefit to agriculture and forestry.

Synagro strongly supports uniform science-based regulations of biosolids through the Virginia Department of Health. Likewise, Synagro fully supports use of good nutrient management practices as an element of sustainable land application programs. That said, Synagro has a number of issues with the proposed Department of Conservation and Recreation Nutrient Management Training and Certification Regulations.

First, the proposed DCR Nutrient Management Regulations establish detail requirements for land application of biosolids and other organic materials. However, responsibility for developing biosolids regulations and standards is assigned to the Virginia Board of Health. The Virginia Department of Conservation and Recreation and the Department of Environment Quality are only authorized to provide assistance to the Board of Health in developing biosolids land application regulations.

In 2003, the General Assembly amended the biosolids law to require that the VDH develop regulations addressing nutrient management of biosolids. The 2003 biosolids legislation also stated that nutrient management plan shall be written by individuals certified under the DCR Voluntary Nutrient Management Training and Certification Program. However, the legislation did not grant DCR any additional authority with respect to biosolids use or nutrient management plans. The respective authority and roles of these two agencies in regards to nutrient management should be kept in view to avoid interference with the Board of Health's authority and responsibility for the biosolids use program.

Certain aspects of the draft regulations will interfere substantially with the biosolids land application programs significantly increasing costs to municipalities, ratepayers and landowners and discourage biosolids recycling within the Commonwealth. To the extent that these proposed regulations impose requirements on the biosolids land application, we submit that they are beyond the Department of Conservation and Recreation's scope of

authority and must instead be addressed through the Board of Health rule-making process.

Two, our next point is that there has been a lack of adequate economic impact analysis by the Virginia Department of Planning and Budget, including omission of significant impacts and understating of the economic impacts to the farm community and the biosolids industry. For instance, during the winter, Synagro currently applies biosolids to over 3,000 acres per month in their coastal plain growth crop areas. These sites are vital as those soils are the only ones in the Commonwealth dry enough to support land application equipment without running or soil impact at that time of the year. Under the current proposed DCR regulations, 40 to 50% of these sites would be permanently lost from the program due to application rate limitations and are not economically viable for land applicators or farmers. Worse, biosolids land applications on the remaining sites would be shut down from November to March due to the application timing limits and other restrictions.

Economic impact analysis fails to fully examine the resulting costs to municipalities such as construction site of storage sites and increasing landfill disposal, increased seasonal manpower and equipment needs due to the compressed window of opportunity for spreading, increased land-based needs and increased hauling costs. These are not one-time costs, but permanent. Year after year costs increase and nowhere is there a cost versus environmental analysis to justify such impacts. Furthermore, the analysis failed to recognize that municipalities, big and small, have limited budgets and that increased land application costs means less money for other needed improvements to protect water quality such as biological nutrient removal systems.

Our last point is that there has been a lack of opportunity for meaningful stakeholder input during the development of these draft regulations. Many elements of the draft regulations and many additions to the accompanying Virginia Nutrient Management Standards and Criteria, Revised 2005, were not revealed to the DCR Technical Advisory Committee or to other stakeholders for review and comment prior to publication in the Virginia Town Hall. We believe that many of these technical issues of concern should've been discussed and addressed with some consensus prior to publication.

To site just one example, the Standards and Criteria contained mandatory but outdated forestry fertilization recommendations due to the lack of consultation with the Virginia Department of Forestry, the Forest Fertilization Cooperative, and Virginia Tech. In addition, the regulations have been written in such a fashion as to allow no deviation from the rigid, highly detailed prescriptions mandated by DCR. There is no provision for alternatives based on unique conditions, new research or advice from other credible and recognized experts. DCR seeks to occupy the whole field of nutrient management fertility recommendations, as an action that Synagro believes well exceeds the limited authority it was granted to develop professional standards for certification of nutrient management planners and the elements of [well] concrete nutrient management plans.

In conclusion, Synagro appreciates the opportunity to highlight our chief concerns. We intend to submit written comments that we will provide extensive detailed and technical impact analysis. We believe modifications to the proposed nutrient management regulations are necessary to make them compatible with the biosolids regulatory program and more workable and effective for Virginia agriculture in general. Thank you for the opportunity to provide these remarks.

**Ms. Susan Trumbo:** Hi, Susan Trumbo, with Recyc Systems and a family farm in Fauquier County. First of, I'd like to say that I absolutely support nutrient management. There's an opportunity for costs savings to the farmers. This week I was talking to a young man in Catlett and he wanted to know why his fertilizer dealer was recommending another 100 pounds of phosphorus on top of the biosolids that he was going to apply. So, of course, he can save himself a lot of money and be environmentally sensitive by not putting that down.

And then we all need to protect the environment. We look forward to watching the wildlife return to our area after the years of everything scarring up the land. When architects, engineers and programmers design anything, they need to keep in mind the end user. In reading the proposal, I'm reminded of what I often hear from farmers that the engineer needs to come out and spend a couple of years in the field actually working with the equipment that they design. If they did, then the engineer would actually possibly design something that would work. The farmers can vote with their wallet. They don't have to buy a piece of equipment or they can return it when it doesn't work. Unfortunately, when regulations are cast, they can't vote with their wallet. They have to suck up and meet the regulations. Hopefully they don't go bankrupt in doing that.

The nutrient management program is burdensome, it's cumbersome and it's inefficient. Some examples is that the nutrient management program is not flexible to be responsible to the dynamics of an agriculture program that has changes to meet the market and the weather. The response is that the farmer can contact his consultant and within two weeks of his consultant, revise his plan. We forget that we have to pay for that consultant to come out and revise our plan. With \$2.50 corn it's kind of hard to pay the fertilizer dealer and a consultant that tells the fertilizer dealer what to put down.

DCR is not training the farmers. DCR is training consultants. You've created an environment for another job opportunity. You haven't made any attempt at all to go out to the farmers. You're not at field days. You don't have programs for the farmers. Farmers are the ones that are there. If you actually trained the farmers, then they'd know what to do and wouldn't have to pay somebody and then maybe they wouldn't have to worry about that two-week delay. Farmers operate at very slim margins. Again, they have to pay for the consultants for now. Most farmers change their program every season, not every three years, so that means their consultant would come out on a quarterly basis and figure out did they till this, did you plant this, how many cows, how many heifers, what changes have you made because with the weather changes, with the market changes, they make changes with their plans. .

The DCR program does not recognize the limited base the farmer has to apply nutrients. They just can't go out and buy another couple of hundred acres, put their manure down because phosphorus is high at the home farm. They can't just go down the road and rent it. In our community, we're pretty much related to each other, we've known each other. We don't compete with each other for land. Families have rented the same piece of property for generations, so if I've got too much phosphorus, I can't go down the road and just rent another piece of property because I'm competing against my neighbor and we don't do that kind of thing, so I guess I need to just sell 15 cows and cut back on my cow numbers.

Most farmers have a limited ability to transport manures offsite. Unlike Recyc Systems they don't have a fleet of trucks available to them. They don't have center pivots. They don't have the equipment. In our community in northern Virginia with more and more houses, we can't just haul manure up and down the road anymore. We used to, but it's dangerous. People get hit by speeding cars. The nutrient management program does not recognize the limited available storage capacity of biosolids. Yes, storage can be built. We can put some storage downtown Petersburg, downtown Richmond, downtown Alexandria. I'm sure that there's land readily available at very low cost and I'm sure that the people living down town won't object at all to having three or four months storage of thousands of tons and I'm sure the rate payers won't object to the millions of dollars that'll be spent to put in that obnoxious storage downtown.

For these reasons and many others which you've heard over these meetings, DCR's nutrient management program will be difficult if not impossible to be implemented and like many engineered tools, it's not going to be used, so you're not going to have the result that you've sat here and expected.

Hunter's already touched on this economic impact study. The impact statements that are published are incomplete and inaccurate. Costs to implement on a farm and at the wastewater treatment plant are incomplete and inaccurate. There's no reference to any outside expert. There's only references to what DCR thought the cost would be. For example, at the farm it does not take into account the cost of purchasing supplemental nitrogen when their application rates are curtailed due to phosphorus. It doesn't take into account their cost of revising their plan each time the farmer makes a change. It refers to just a couple of dollars an acre. I can't imagine it could be that cheap. It doesn't take into account the cost associated with winter management of biosolids.

My recommendation is for DCR to go back. You no longer have to meet the deadline for the phosphorus so you now have time to fix it and do this right. Do a real risk benefit study, a real one. You don't need to use Maryland. You need to use Virginia field data, more than one or two field studies. Get real costs to implement this for people who actually have expertise. Come out in the field and find out what it'll actually cost. Get the facts. Get the actual costs. Get the actual benefits.

In closing, I'd like to read this one statement in the economic impact. Thus, given the many large uncertainties it is not possible at this time to make a sound determination of

the net economic impact of the proposed change. Farmers have a slim margin. Wastewater treatment plants are responsible to ratepayers and you can't make a sound determination of the net economic impact of these proposed changes. It seems rather irresponsible of you to proceed without having done so. Thank you.

**Mr. Lloyd Wright:** Thank you. My name is Lloyd Wright and I'm here representing Milton Wright Trucking. It's a small, probably smallest of the firms in the state that's in the biosolids management business. In addition to biosolids, two years ago I planted 1,200 bushels of oysters in Westmoreland County on the Bay, so I have an interest in cleaning up the Bay and I have a few acres of corn in, about 90, and we put biosolids on that so I have interest in biosolids. In addition, I do the permitted work for my brother as well as nutrient management plans and I found that nutrient management plans are great. I think they are accomplishing something the way they are. We've been able to convince a number of people not to apply additional phosphorus because it was already pretty high.

If I was convinced that these regulations, proposed regulations, would improve the Chesapeake Bay, I'd stand here and support them. I'm not convinced that they will do one thing to improve the Bay. I'm convinced that it will have a negative impact on a number of others however, first on farmers in that for much of the land that we have permitted in the coastal plain area we do winter application and you would not be able to do it here. Those farmers would lose whatever available biosolids because there's a very narrow window that would be left to apply biosolids so I think it's going to impact farmers and they're operating on a thin margin and Susan mentioned \$2.50 corn. I hope you get that; \$2.00 might more the target.

However, in either case, they're slim margins. I see a negative impact on the farmers. I think it's a negative impact on the biosolids business in general, those who manage and apply it and on the ratepayers in that if much of this goes to landfill, it will be passed on. We don't have to pay to apply it to land, but we will to take it to landfills.

There're a couple of examples this would improve. For example, you have increased the buffers over and above what was required by EPA, based on their studies and recommendations and the Department of Health. The thing that I think you overlooked is that much of what we leave in buffers the farmer can come along and apply commercial fertilizer. We might be concerned with 50 feet of limestone rock on the farmer will probably apply it over that rock, so you haven't accomplished a thing. That's why I think my oysters are going to be even better off because I don't think you've looked at this in a comprehensive way as to how it's going to really going to improve the Bay which I would hope that some day we'd get down to doing.

I pay higher rates now to take more of the nutrients out of the effluent and I would be disappointed to see that going to landfills rather than to farms and as a rate payer, I would pay more for that, so that's one example is that I don't think you're accomplishing a thing with the buffers. I don't think you accomplish anything with the winter limitation and that fertilization rates are very low to have occurred but you don't want us to spread it and I think you probably should do some work on that to show how much would be lost.

I think that impact should be shown as compared to the negative impact in cost to the ratepayers, to the biosolids business and to the farmers.

I think I'll add one other thing and then I'll submit some written comments. First, I don't think the economic analysis is near complete. Having done a few in my life, I think you missed the target by a mile and I won't say more because others have already noted that and I think to base any kind of patterns on information that you get from Virginia Tech labs will miss the point and that I use Virginia Tech labs for small farmers and also the A&L Lab. But for all my business work 100% goes to A&L Lab, so I think you might be looking at a different picture when you look at Virginia Tech compared to A&L Labs, so you need to probably get some additional information before you do this analysis. Thank you again. I will have some written comments.

**Mr. Paul Hartzell:** Thank you. Paul Hartzell. I represent the Virginia Turfgrass Council. I'm Vice President of the Council and working in the turfgrass industry in the state. My comments come from a compilation of thoughts expressed in several meetings, phone calls, with some DCR personnel or VTC Board and industry personnel as well. I don't agree with the recommendations set forth as general industry guidelines for the following reasons. They are based on science over 10 years old, 1993, to be exact, in the guidelines set forth for turfgrass were put into place and much research into this issue has been done that is not being taken into consideration, both on plant physiology and fertilizer components, type of fertilizers that have been developed over the last 10 to 12 years.

I would like to ask that DCR again involve the land grant university which is a state institution mandated by the federal government to assist the agricultural community which includes turf grass, by providing research and guidance to validate and improve practices involved in our industry. I'd like to ask that you involve them again in review of these guidelines as related to my first statement of updated research.

These guidelines also as set forth do not take into consideration certain use situations in turfgrass. It does not delineate between warm season or cool season grasses. That's a major difference. It doesn't differentiate between growing or establishment of turf grass and established turf to include differences of the aforementioned varieties of establishing warm season or cool season grasses. It doesn't differentiate between soil type, whether it be a native soil, an imported soil, a sand-based or amended soil. Oftentimes, we see a compilation of all of those. In a golf course situation, you can have sand-based green, an amended tee, and a native soil fairway rough area.

Turf recovery establishment or re-establishment following catastrophic turf loss, I used the example of the hurricanes or the rains that Richmond saw last November when it got 20 inches of rain in a six-hour period. There was some catastrophic turf loss. It does not take into consideration storm damage, severe pest damage or extreme weather conditions, geographic location or weather or climatic differences.

I ask you to consider in the above mentioned and as a member of the Virginia Turfgrass Council the state body of turfgrass professionals who deal with these issues and many others by bringing together the university experts, the business owners, the manufacturers, the distributors, the sales people, the superintendents, the foremens and even the crew people to provide information and education that's timely and useable as we work day to day in the environment. Many think that we are out just to earn a buck, whether you're selling fertilizer or whether you're actually running a sports field complex or a golf course superintendent and you know this is necessary in the farming community. We've got to earn a living. What we recognize as the most active stewards of the land. We are literally out there every day. We're in that environment every day and we want the safest, cleanest environment for ourselves and our families.

We are willing to work with DCR through the land grant university and the VTC along with other professional associations in two main particular areas. One is develop an urban nutrient management plan and training and certification program. The existing nutrient management planning program deals mostly with agricultural entities. Urban landscape, urban nutrient management is a whole 'nother ballgame and we'd like to work with you, partner with you, to develop an urban planning program. Review and update these guidelines to include current research data and facts that affect turfgrass.

We welcome, if you so choose, the opportunity to partner with DCR to evaluate and update these guidelines in assistance with the professional staff at Virginia Tech, our land grant university. I hope you will take this into serious consideration and realize that we are not against what is needed here but want to be responsible and reasonable in our actions as we worked in working with our Governor three ago when we had the drought situation. We joined a drought taskforce when the Governor said he was not affecting agriculture although he said golf courses could not irrigate. Golf courses are a major part of agriculture in the state of Virginia. We partnered with the task force to look at water issues and establish guidelines that will be used in the future. We have a history of responsibility and professionalism and desire for that to continue in a proactive manner.

Just as a little side note, in my business I actually do a lot of soil testing. I do sell products to the golf course industry. I base it on sound science in determining what the soil has and what the soil is available to do for the plant in making recommendations for fertilizer applications. To day, I can speak informatively not only myself but several other individuals who provide either just soil testing solely as their business or soil testing to help sell products that we use different labs across the country—Harris Labs out in Nebraska, Logan Labs, [Grow Side] Labs, A&L Labs out of Richmond. Very rarely do we use Virginia Tech soil testing lab. That lab has been very hurt over the years through some of the problems with the state budget mainly and the Department of Agriculture and we really need Virginia Tech and that soils lab to be brought back and brought up to a standard that we can actually use in the industry and in agriculture here in Virginia. Thank you. I appreciate your time and the opportunity to speak.

**Mr. Bill Henley:** Good evening. My name is Bill Henley and I'm with Hillsborough Farms and I'm also a County Farm Bureau member. A number of the points I wanted to

talk about tonight have already been touched upon, so I'll try to be brief, but the first thing that concerns me greatly about the time of these hearings for the proposed regulations is that it's a period of the year when farmers are very busy either planting their soybeans or getting in their hay and I feel that they should be included in this discussion period because they're the ones these proposed regulations will greatly affect and the whole state agricultural economy.

No. 2, growing up in a family whose father for almost 20 years has been involved at the local soil conservation level, I've been very brought to mind the conservation issues and how they've been implemented on our family farm. Over the past 10 years we've transitioned some of our farm land into organic farming and relied very heavily on natural sources of nitrogen to grow these crops such as poultry litter. I feel that by not basing these decisions on strong scientific data that we could be not only detrimental to people that grow organic crops, but to the whole economy because we get our poultry litter out of the Shenandoah Valley which is higher levels of phosphorus and it's transported to another area so we can apply it, but if we don't base this on good science we can be hurting the overall economy because when you hurt one sector, it hurts everybody else.

No. 4, I talked about briefly. The effect on the agricultural economy of the state and the need to base this on good scientific data. That's all I had tonight. I appreciate you giving me time to talk.

**Mr. Scott Mundie:** I apologize for not being more prepared, but as stated, these meeting come at a poor time for those of us in the field. My name is Scott Mundie. I'm a graduate of Virginia Tech. I'm a certified nutrient management planner and a technical service provider in addition to being under contract with the Natural Resources Conservation Service to write nutrient management plans. Currently I'm back on the family farm. It's row crop operation. We've got commercial cows and about 99% of our fertilizer is of commercial nature, so directly the impact that these proposed regulations would have on us would be very minimum.

However, all of the agriculture in the state is in the interdependent on one another. For instance, I raise corn and poultry growers need corn to feed their chickens or turkeys or whatever and I'm right here at them, so this winter when the midwest was facing an 81 cent deficit on an annual basis on their corn, I was enjoying a 60 cent positive basis on my corn and I would hate to see the poultry growers find a more pleasant place to grow their chickens or turkeys.

Another point that hasn't been touched on so far is the impact that these changes would have on vegetable growers. I don't grow vegetables, besides in my garden, but I write plans for the farmers that grow vegetables and in doing so, I've learned a whole lot about the fertilization from farmers of those vegetables and I have not seen any better method of efficient fertilization than trickle irrigation. However, the requirements based on sound science through the commercial vegetable producers guided released by Virginia Tech and I think annually calls for as much as 200 pounds of phosphorus for tomatoes

and potatoes, for instance. I asked some of the guys that I had written plans for how many of their soil samples would come back as high or very high where they grow their vegetables and the guys that I asked said probably all of them, so there goes a portion of their productivity.

In addition, in the analysis it gave some numbers as to how many of the samples the vegetable producers sent in to Tech are returned as high or very high, that that number is very incomplete because there's a limited number of vegetable producers that send their samples to Tech.

I've got a question and that is, perhaps rhetorical, why is a board, a review board, not in place to review the proposed regulations. This is from the Town Hall website. It says the agency's best estimate of the number of set entities that would be affected—290 served by nutrient management planners; 1,260 dairy, beef, swine and poultry farmers; 9 sewage sludge land application, 35 Virginia sewage treatment plants. Why is there not a board in place to review these proposed changes before they are taken this far because it's easier for someone to make a change that won't be affected by them?

Mr. Dowling inquired if anyone else wished to speak. Hearing none he thanked each speaker for their comments. He noted that persons desiring to submit written comments pertaining to this notice and this meeting may do so by mail, by Internet, or by facsimile. Comments should be sent to the Regulatory Coordinator at the Virginia Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219. Comments also may be emailed to the Regulatory Coordinator at: [regcord@dcr.state.va.us](mailto:regcord@dcr.state.va.us). Or comments may be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address of the commenter and e-mail addresses would be appreciated also, if they're available. In order to be considered, comments must be received by 5:00 PM on July 1, 2005.

Mr. Dowling thanked the audience for attending the meeting and for providing DCR with their views and comments and wished everyone a safe trip home.

The hearing was closed at 9:00 p.m.

### **ATTENDEES**

**Doug Baxter**, Tyson Foods.

**Todd Ashton**

**Lewis Ashton**, King George County Farm Bureau.

**Dick Atkinson**, Virginia Soybean Association.

**Jennifer DeHart**, Chesapeake Bay Foundation.

**John Davis**, Virginia Agribusiness Council.

**Katie Kyger**, Virginia Agribusiness Council.

**Lloyd Wright**, Milton Wright Trucking.

**Susan Trumbo**, Recyc Systems.

**Hunter Richardson**, Synagro.

**Claiborne Taylor**, Synagro.

**Wilmer Stoneman**, Virginia Farm Bureau.

**Paul Hartzell**, Virginia Turfgrass Council.

**Keith Balderson**, Three Rivers Soil and Water Conservation District.

**Scott Mundie**, WST Farms, Inc.

**Craig Brann**, Three Rivers Soil and Water Conservation.

**Bill Henley**, Bill Henley, Hillsborough Farm.

**Virginia DCR Staff Present**

David Dowling, Director of Policy, Planning and Budget

Russ Perkinson, Nutrient Management Program Manager

Michael R. Fletcher, DCR's Director of Development

Christine Watlington, Policy and Budget Analyst

Jack Frye, Director of the Division of Soil and Water Conservation

Stu Wilson, Assistant Director of the Division of Soil and Water Conservation

David Kendig, Nutrient Management Training and Certification Coordinator.