



Protecting Florida's Clean Water Environment

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August 12, 2019

Attention: Submitted electronically to Kristin.Gousse@dep.state.fl.us.

Mr. Thomas Frick, Director
Division of Environmental Assessment and Restoration
Florida Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Re: Chapter 62-640, F.A.C., Rulemaking

Dear Director Frick:

The Florida Water Environment Association (FWEA) Utility Council appreciates the opportunity to provide comments on the proposed rule revising chapter 62-640, F.A.C., regarding the beneficial use of biosolids. The FWEA Utility Council is the statewide umbrella organization for Florida's domestic wastewater treatment utilities, and the voice of Florida's domestic wastewater treatment community. Protecting the environment and public health is our core business. Our members operate domestic wastewater collection, treatment, disposal, and reuse facilities providing essential infrastructure services to over 9 million Floridians. In providing these services, member utilities across the State have invested millions of dollars upgrading wastewater treatment systems to remove pollutants, including nitrogen and phosphorous, before safely discharging or reusing the treated effluent.

As you know, biosolids are a byproduct of domestic wastewater treatment. This material has high organic content and contains low levels of nutrients that plants need to grow. For years, communities, ranchers, and agricultural producers have beneficially reused biosolids as a fertilizer or soil amendment. The Department regulates these practices to ensure that these practices protect water quality and the public health.

The FWEA Utility Council supports the Department's biosolids regulatory program. In 2010, the Utility Council worked closely with the Department when the Rule 62-640 was updated to require land application sites to implement comprehensive and site-specific Nutrient Management Plans to limit the potential for biosolids practices to impact surface waters. Since that rulemaking, the science on land application has evolved. Accordingly, the Utility Council supported the Department's formation of a Technical Advisory Committee to ensure that its rules incorporate the best available science. It is critical that Nutrient Management Plans protect our waters and promote beneficial use of biosolids as a fertilizer offset and soil amendment.

The FWEA Utility Council believes that most of the Department's proposed changes reflect the Technical Advisory Committee's (TAC's) recommendations, are based on sound scientific information, and – most significantly – will enhance the environmental sustainability of this

longstanding recycling program. We are concerned, however, that a particular facet of the Department's proposed rule lacks a sound scientific basis, unduly restricts biosolids use, and may create unintended negative consequences. Namely, the draft rule bans land application on any site where the seasonal high ground water table comes within 15 centimeters of the surface. This provision seems to ignore other rule updates that require application site managers to take into account soil attributes, crop characteristics, and other scientific information to ensure that biosolids sites are managed to prevent water quality impacts. In our conversations with TAC members, this year-long prohibition in such areas was not among their recommendations, and it seems to lack a sound scientific basis. Further, we are concerned that if currently permitted sites in Central and Northeast Florida are eliminated as an option (as the current draft would appear to do), the unintended environmental consequences have not been fully evaluated.

Despite our concerns with the proposed blanket prohibition, we understand that land application sites that have elevated seasonal ground water tables should be closely scrutinized to ensure that land application practices do not cause environmental impacts. Accordingly, land application should only be allowed in such areas if the site permittee demonstrates that their activities will not impair surface waters or ground waters. This demonstration could be achieved through a Nutrient Management Plan and water quality monitoring program or through water table management practices that ensure biosolids do not impact state waters.¹ Specifically, we recommend the following amendment to Draft Rule 62-640.700(10):

Biosolids shall not be applied on soils having a seasonal high ground water table less than 15 centimeters from the soil surface or within 15 centimeters of the intended depth of biosolids placement, unless:

(a) A department approved nutrient management plan and water quality monitoring plan provide reasonable assurance that the land application of biosolids at the site will not cause or contribute to a violation of Florida surface water quality standards or ground water standards; or

(b) The actual water table can be determined to be greater than 15 centimeters from the soil surface or the intended depth of biosolids placement at the time of application and the applicant can provide a reasonable assurance that any subsequent changes in the depth of the actual water table after the application of biosolids will not result in the movement of biosolids beyond the application site and presents a low potential for phosphorus transport from the site. The applicant may provide this reasonable assurance by showing that the water table at the application site will be actively managed to prevent the offsite movement of biosolids and nutrients.

The FWEA Utility Council believes that this amendment to the draft rule will achieve our shared environmental goals without unduly limiting available and environmentally sustainable land application sites. We also believe that this rule provision could be strengthened further by defining the term "seasonal high ground water table." We would be pleased to work with the Department to define the term in a manner to ensure the rule is predictably implemented and protects the environment as intended.²

¹ Many application site managers have the capability to accurately determine the actual level of the water table to ensure that it will not interact with biosolids. There are also application sites that actively manage the water table for purposes of irrigation and, as a result, can ensure that the actual water table will not interact with biosolids once they are applied.

² A helpful starting place would be the water table definitions utilized by other Florida executive branch agencies. See, e.g., SJRWMD, Environmental Resource Permit Information Manual, 2.1(r), at

The FWEA Utility Council appreciates the opportunity to provide these comments on the proposed rule revising the regulation of biosolids. If you would like to discuss any of the issues raised in this letter, please do not hesitate to contact FWEA Utility Council President, Paul Steinbrecher, at steipk@jea.com, or FWEA Utility Council Legal Counsel, Adam Blalock, at adamb@hgslaw.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "D Childs".

David Childs
General Counsel, FWEA Utility Council

CC: Alex Reed, Director, Division of Water Resource Management
Maurice Barker, Biosolids Coordinator