



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

May 10, 2010

Ms. Suzanne G. Printy, Chief Attorney
Joint Administrative Procedures Committee
Holland Building, Room 120
Tallahassee, Florida 32399-1300

Re: Chapter 62-640, Florida Administrative Code
OGC No.: 09-3841

Dear Ms. Printy,

Thank you for your March 17, 2010, letter commenting on proposed amendments to Chapter 62-640, F.A.C. The Department has reviewed your comments and provides the following response. Please note that all changes proposed below reflect changes to be made to the notice of proposed rule, as would be reflected in a notice of change.

62-640.200(28) The Department agrees to modify this subsection. The Department proposes the following modification:

(28) "Liquid biosolids" means any biosolids that are less than 12% solids by weight, or that are determined to contain free liquids as defined by Method 9095B (Paint Filter Liquids Test), November 2004, as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846), January 3, 2008, 73 FR 486, which is hereby adopted and incorporated by reference and is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices.

62-640.210(1) The Department agrees to modify this subsection. The Department proposes the following modification:

(1) Unless specifically referenced elsewhere in this chapter, the following publications are listed for informational purposes as technical guidance to assist facilities, applicators, distributors and marketers, site managers, and site owners in meeting the requirements of this chapter. Publications or portions of publications containing enforceable criteria are specifically

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referenced elsewhere in this chapter. Information in the publications listed below does not supersede the specific requirements of this chapter. Members of the public may request and obtain copies of the publications listed below by contacting the appropriate publisher at the address indicated. Copies of the publications are on file ~~with the Florida Secretary of State and the Joint Administrative Procedures Committee of the Florida Legislature.~~ Copies are also on file and available for review during normal business hours ~~at in the~~ Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 ~~Department's Tallahassee offices and in the Department's district and branch offices.~~

62-640.210(2)

The Department understands your comment regarding the listing of forms however believes it is still helpful to the general public to have all forms adopted and incorporated into a rule chapter listed in one convenient place. Still, the Department is agreeable to also incorporating these forms when they are mentioned elsewhere in Ch. 62-640. These changes will be addressed in response to the appropriate rule section.

62-640.300(1)

The Department agrees that Section 403.087, F.S., requires stationary installations to be equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards and rules of the Department. Chapter 62-640, F.A.C., regulates the following four types of permitted installations, i.e. facilities: (1) domestic wastewater facilities; (2) biosolids treatment facilities; (3) septage management facilities; and (4) land application sites (land application sites are a type of biosolids management facility in accordance with the "biosolids management facility" definition under 62-640.200(7), F.A.C., which in turn are "facilities" in accordance with 62-640.200(19), F.A.C.). The requirement that these facilities be equipped with pollution control facilities can be found in various places in Department regulations.

Domestic wastewater facilities generate biosolids due to their function of collecting and treating domestic sewage. Requirements for providing or equipping domestic wastewater treatment facilities with pollution control facilities for biosolids are located in Rules 62-600.400, 62-600.735, and 62-620.320, F.A.C.,¹ which are the primary rules for domestic wastewater

¹ 62-600.400, F.A.C., contains design requirements for domestic wastewater facilities. Rule 62-600.735, F.A.C., contains requirements that a domestic wastewater facility provide an operation and maintenance performance report that evaluates the facility's various components. Rule 62-620.320, F.A.C., specifies that wastewater

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facilities, in addition to various parts of Chapter 62-640, F.A.C. Biosolids treatment facilities and septage management facilities are facilities that accept and treat biosolids from domestic wastewater facilities. Rule 62-640.880 (specifically (2)(e) and (f)) includes more explicit design and operation requirements for these facilities in addition to requirements from Chapters 62-600 and 62-620, F.A.C., for biosolids treatment facilities and septage management facilities. For all three of these facility types, the following sections of Chapter 62-640, F.A.C., provide requirements related to "pollution control facilities" for biosolids: Rule 62-640.300(4), F.A.C., requires storage and addresses storage facilities for treatment facilities; Rule 62-640.400(7), F.A.C., requires treatment to be conducted at the permitted facility; Rule 62-640.600, F.A.C., requires all biosolids to be treated with a treatment process designed to reduction pathogens and vector attraction in accordance with the requirements of the section; and Rule 62-640.650(3)2, F.A.C., requires the identification of all operational and process parameters.

Land application sites are areas, usually agricultural in nature, where treated biosolids are applied to the land to allow for additional treatment of pollutants, primarily through the uptake of nutrients by crops. Land application sites are a type of facility that is somewhat different in nature than the other three facility types. Instead of consisting of manufactured equipment, land application sites are a plant/soil disposal system that consist of fields and crops that act as the mechanisms to abate pollution from the applied biosolids. The fields and crops are the "pollution control facilities" at a land application site and are operated and managed so the crops will uptake nutrients from the biosolids and the soil will assimilate the metals (i.e. abate pollution). These are not naturally occurring native systems and need to be planted, managed, and operated in accordance with designed plans that demonstrate the capability to uptake sufficient levels of nutrients.

The primary rule section outlining the requirements for providing or equipping the site with pollution control facilities is Rule 62-640.500, F.A.C., the nutrient management plan (NMP) section. The NMP serves as the design report for the land application site. The requirements for the NMP in this rule section include the identification of the fields, crops, expected crop yields, crop nutrient demands, etc., that are necessary to

determine the levels of pollutants (i.e. nutrients) the fields and crops can abate.

There are also additional minor requirements related to the provision of "pollution control facilities" for land application sites contained within Rule 62-640.700, F.A.C., including Rule 62-640.700(6)(a), F.A.C., - requirement to apply biosolids with appropriate techniques and equipment to assure uniform application over the application zone; Rule 62-640.700(6)(e), F.A.C., - addresses storage including meeting of setbacks, fencing or other features to discourage entry, and storage areas and facilities; Rule 62-640.700(6)(f), F.A.C., - requires signage at the site; 62-640.700(7), F.A.C., - places lifetime metals limits for each application zone; Rule 62-640.700(8), F.A.C., - requires setback distances for sites; Rule 62-640.700(9), F.A.C., - requires the soil pH of the fields to be at least 5.0 (to ensure minimal metal leaching from the soil); Rule 62-640.700(10), F.A.C., - requires piezometers or monitoring wells as applicable; and, Rule 62-640.700(11), F.A.C., - restricts the topographic grade of the sites. Additionally, Rule 62-640.600(2), F.A.C., allows two vector attraction reduction options (i.e. injection and incorporation) to be conducted at the site that inherently require equipment and which use the soil to restrict potential exposure to potential pathogens in the biosolids (i.e. another form of abating the pollution).

62-640.300(2)(a) Although your letter cites to 62-640.300(2)(a), I believe you meant 62-640.300(2)(b). As stated above the Department agrees to modify this paragraph as provided below:

(b) The Treatment Facility Biosolids Plan, Form 62-640.210(2)(a), effective _____, hereby adopted and incorporated by reference, shall be submitted with the permit application to identify sites where the facility's biosolids are permitted to be land applied. This form is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices.

62-640.300(3)(c) The Department agrees to modify this paragraph as follows:

(c) Applicants for a permitted biosolids application site shall submit the Biosolids Site Permit Application, Form 62-640.210(2)(d), effective _____, hereby adopted and incorporated by reference, the applicable fee, and

supporting documentation to the appropriate District Office of the Department or delegated local program responsible for the geographic area in which the application site is located. This form is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices.

62-640.300(3)(d) The Department agrees to modify this paragraph as follows:

(d) The following shall require a minor permit modification through the procedures provided in subsection 62-620.325(2), F.A.C.;

1. Expansions or changes to the physical boundaries of the application areas of a permitted application site that encompass areas not addressed in the site permit and NMP; or
2. Changes to the agricultural operations at the application site, such as a change in crops or management practices, that will result in increased nutrient loading or application rates not addressed in the NMP. A revised NMP shall be submitted with the minor permit revision application.

62-640.400(2) The Department agrees to modify this subsection as follows:

(2) Land application of biosolids shall not result in a violation of Florida surface water quality standards pursuant to Ch. 62-302, F.A.C., or ground water standards pursuant to Ch. 62-520, F.A.C.

62-640.400(9) This subsection clarifies that tracking or spilling of biosolids, which are two common types of improper releases, outside of the facility or land application site is prohibited. This is consistent with Rule 62-600.740, F.A.C., which prohibits "...the release or disposal of.....domestic wastewater residuals without providing proper treatment approved by the Department or otherwise violating provisions of this rule or other rules of the Florida Administrative Code." Biosolids are only permitted to be applied to the land in a manner approved by the Department. Any other type of biosolids application to the land whether intentional or not, such as tracking or spills, is prohibited.

The proposed prohibition is purposely written to provide the permittee with flexibility on how to address the provisions. For example, to avoid spills, an entity could choose several options such as covering a truck or providing a better cover on a truck, installing baffles in the bed of a truck,

or reducing the amount of biosolids carried in a truck to increase freeboard so there is less of a chance of a spill. Additionally, the provision allows an entity to choose how to avoid tracking biosolids off a site; i.e. brush the biosolids off the truck or tires, use compressed air to clean the truck or tires, or wash the biosolids off the truck or tires.

The tracking portion of the provision was also written to clearly apply to biosolids. While the tracking of mud from a land application site is sometimes common, it does not cause an environmental concern and therefore is not addressed by this prohibition. It is acknowledged that biosolids can sometimes have an appearance similar to mud but biosolids can usually be distinguished from mud or soil at the land application site upon inspection or sampling. As with all enforcement actions undertaken by the Department, the burden of proving the factual elements of a violation of its rules is on the Department. See §403.121(d), F.S.

62-640.500(1)

The requirement in this subsection for a permittee to submit a site specific nutrient management plan (NMP), is implementing Sections 403.087, 403.088 and 403.0881, F.S. Section 403.087(1), F.S., requires a stationary installation that is reasonably expected to be a source of water pollution to obtain a permit from the Department. Section 403.088, F.S., as implemented by 62-620.320, F.A.C., requires any person intending to discharge wastes into waters of the state to apply, by submitting the required information, for an appropriate permit. Section 403.0881, F.S., authorizes the Department to issue permits for facilities based on review of a preliminary design report, application forms and other required information as specified by Department rule.

As discussed above, Section 403.087, F.S., also only allows the Department to issue permits to installations when they are equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the Department. All stationary installations permitted by the Department are required to submit design reports, plans, and other information for the pollution control facilities which will be provided at the installation. As noted in the response to comments on subsection 62-640.300(1), NMPs serve as the design report for an application site. The NMP describes the means by which pollution will be abated or prevented at the land application site. The Department would not have a basis to approve a site or the land application of biosolids without a detailed plan outlining the specific

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provisions of the fields and crops at the site that demonstrates the capability of those fields and crops to assimilate the biosolids and the biosolids related pollutants.

62-640.500(2)

The original intent of this subsection was to provide flexibility to permittees and to point out other potential sources of information on the preparation of NMPs (NRCS, IFAS and FDACS). While Code 590 is the Department's preferred guidance for NMPs, permittees will still be able to use other guidelines in preparing NMPs, as long as the other requirements of Rule 62-640.500, F.A.C., are met.

Based on the above, the Department proposes the following modification of this subsection:

~~(2) The NMP shall be developed, or revised as necessary, in accordance with nutrient management standards and guidelines such as those from the Natural Resources Conservation Service (NRCS), the University of Florida Institute of Food and Agricultural Sciences (IFAS), or the Florida Department of Agriculture and Consumer Services (FDOACS). NMPs prepared in accordance with the USDA-NRCS-Florida Field Office Technical Guide - Nutrient Management, Code 590, September 2007, listed in paragraph 62-640.210(1)(m), F.A.C., hereby adopted and incorporated by reference, is available to provide technical guidance in the preparation of NMPs from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices be acceptable to the Department.~~

62-640.650(1)

The Department agrees to modify this subsection as follows:

(1) The minimum requirements in this chapter for monitoring, record keeping, or reporting by a permittee ~~shall~~ may be increased or reduced by the Department considering any of the following depending upon site-specific requirements; ~~including~~ the quality or quantity of wastewater or biosolids treated; ~~;~~ historical variations in biosolids characteristics; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; and the compliance history of the facility or application site.

While the Department is making some minor changes to this subsection in these revisions, this provision has been in existence in Ch. 62-640, F.A.C., (formerly Ch. 17-7 and 17-640, F.A.C.) since 1984, and outside of enforcement-related cases, has been used rarely, if at all, except perhaps by permittees to request a reduction in reporting, record keeping or monitoring requirements. The Department's basis for changing any reporting, record keeping, or monitoring requirements in a permit without a corresponding change in the conditions or circumstances of the permitted activity would depend on the situation but would need to be based on one of the factors in subsection 62-640.650(1), F.A.C. For an existing facility, a change that would increase a permittee's reporting, record keeping or monitoring would typically occur in response to some change in conditions, circumstances or information that is made available to the Department. In fact if conditions, circumstances, and information surrounding the permitted facility remain constant, that could actually weigh in favor of the permittee requesting a reduction in the permitting requirements. As indicated in Rule 62-620.325, F.A.C., a change in these permit conditions would be subject to Ch 120, F.S., process and the Department would have to justify any increase related to reporting, record keeping, or monitoring requirements.

62-640.650(3)(a)1. The Department agrees to modify this subparagraph:

1. Biosolids sampling and analysis to monitor for the pathogen and vector attraction reduction requirements of Rule 62-640.600, F.A.C., and the parameters in subparagraph 62-640.650(3)(a)3., F.A.C., shall be conducted by the treatment facility in accordance with 40 CFR 503.8, and the *POTW Sludge Sampling and Analysis Guidance Document, August 1989*, which the Department adopts and incorporates by reference. This document is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices. In cases where disagreements exist between 40 CFR 503.8 and the *POTW Sludge Sampling and Analysis Guidance Document*, the requirements in 40 CFR 503.8 will apply.

62-640.650(3)(b)1. The Department agrees to modify this subparagraph:

(b) Soil Monitoring.

1. The site permittee shall ensure soil fertility testing is conducted in accordance with the NMP. Soil testing shall follow the procedures in the

IFAS publications "Soil Testing", UF/IFAS Circular 239, September 2003, identified in paragraph 62-640.210(1)(o), F.A.C., and "Extension Soil Testing Laboratory (ESTL) Analytical Procedure and Training Manual", UF/IFAS Circular 1248, February 2009, identified in paragraph 62-640.210(1)(p), F.A.C., which are hereby incorporated by reference. These documents are available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices. Results of soil fertility tests shall be included in the application site records.

62-640.650(4)(j)3 Although your letter did not specifically comment on this subparagraph the Department agrees to properly adopt and incorporate the referenced form as follows:

3. For each application zone, maintain Biosolids Application Site Log, Form 62-640.210(2)(e), F.A.C. effective _____, hereby adopted and incorporated by reference, and available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices;

62-640.650(5)(c) Although your letter did not specifically comment on this paragraph the Department agrees to properly adopt and incorporate the referenced form as follows:

(c) Treatment Facility Biosolids Annual Summary. Permittees of wastewater treatment facilities or biosolids treatment facilities permitted for land application shall submit a summary of the shipment records required by paragraph 62-640.650(4)(d) and subsection 62-640.880(4), F.A.C., as applicable, to the appropriate District Office of the Department, or to the delegated local program, on an annual basis. The summary must be submitted on Department Form 62-640.210(2)(b), effective _____, hereby adopted and incorporated by reference, and available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices. The summary shall include all biosolids shipped during the period January 1 through December 31. The summary for each year shall be submitted to the Department by February 19 of the following year.

62-640.650(5)(d) Although your letter did not specifically comment on this paragraph the Department agrees to properly adopt and incorporate the referenced form as follows:

(d) Biosolids Application Site Annual Summary. The site permittee shall submit a summary of land application activity to the appropriate District Office of the Department, or to the delegated local program, on an annual basis. The summary shall be submitted on Department Form 62-640.210(2)(c), effective _____, hereby adopted and incorporated by reference, and available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices. The summary for each year, covering the period from January 1 through December 31, shall be submitted to the Department by February 19 of the following year. The summary shall include all of the following, as applicable:

62-640.700(6)(b) Although your comment letter did not specifically comment on this paragraph, it has similar language as 62-640.700(8)(a)4.a and (8)(b)1. below and therefore we will make a similar change as shown below:

(b) Beginning within one year of (the effective date of the rule), Class A and Class B biosolids treated by alkaline addition shall be applied by the best management practice of incorporation or injection unless the application area is located at a distance greater than one-quarter mile from the application site property line. ~~This distance may be decreased if the affected adjacent property owner provides written consent.~~

62-640.700(8)(a)1. The incomplete sentence in this subparagraph was an error that occurred when loading or publishing the proposed rule to the FAW site. The Department agrees to modify this subparagraph as follows:

(8) Setback Distances.

(a) The following setback distances shall apply to land application sites that accept either Class A or Class B biosolids.

~~the biosolids are injected or incorporated into the soil.~~

1. The biosolids land application zone shall not be located closer than 1000 feet to any Class I water body, Outstanding Florida Water or Outstanding National Resource Water, or 200 feet from any other surface water of the state as defined in Section 403.031, F.S. This setback does not apply to waters owned entirely by one person other than the state, nor to canals or

bodies of water used for irrigation or drainage, which are located completely within the application site and will not discharge from the application site. The setback area shall be vegetated. The 200 foot setback distance from surface waters may be reduced to 100 feet if the biosolids are injected or incorporated into the soil.

62-640.700(8)(a)2. The missing strikethrough in this subparagraph was an error that occurred when loading or publishing the proposed rule to the FAW site. The Department agrees to modify this subparagraph as follows:

2.(b) The biosolids ~~residuals~~-land application zone shall not be located closer than 300 feet from any private drinking ~~potable~~-water supply well or 500 feet from any public drinking ~~potable~~-water supply well.

62-640.700(8)(a)4. The primary basis for establishing a 1320 foot setback distance from biosolids stored or stockpiled to a building occupied by the general public is to reduce the potential for nuisance odors from the biosolids storage area. This provision implements Sections 403.031(7), 403.061(9) and (28), and 403.702(1)(f), F.S. These statutes address "pollution" that may "unreasonably interfere with the enjoyment of life or property, including outdoor recreation" including from the storage of wastes.

The handling and management of a concentrated volume of biosolids at a single point can increase the chances of creating objectionable odors. Additionally, holding the biosolids for an extended period of time prior to application can also increase odor potential, especially when the biosolids are initially disturbed after prolonged storage. Numerous guidance documents discuss the need for a buffer for storage areas, including the National Biosolids Partnership "Manual of Good Practice" which states that if the neighbor can see the storage, it is too close. However, the distance is of 1320 feet is derived from two other sources of information.

There is a general odor dispersion chart in Appendix B of the Water Environment Research Foundation document "Health Effects of Biosolids Odors: A Literature Review." This chart is based on conservative conditions and provides odor dilution factors based on distance from the source. This indicates that a distance of 1320 feet would dilute an odor to 1/150th of the original intensity of the odor. This would appear to provide reasonable assurance that the odor would not be noticeable enough to cause an objection but it would depend on the original intensity of the odor.

In addition to the dispersion chart, the American Society of Agricultural Engineers' recommendation for buffers from animal facilities provides additional support for a 1320 foot setback. Odors from animal facilities are similar to biosolids odors because they are primarily fecal and waste-related. Because these animal odors would be from raw, concentrated manure sources instead of "treated" material, they would generally represent more of a worst-case scenario for biosolids than the average situation. In reviewing literature, the American Society of Agricultural Engineers recommends separation distances of 1600 meters (one mile) from public areas and between 400 meters to 800 meters (1/4 mile to 1/2 mile) for neighboring residences for animal facilities, with greater distances recommended for larger operations. The shortest distance recommended is 400 meters (1/4 mile) or 1320 feet.

Given these two sources of information, the Department decided that 1320 feet would be an appropriate setback for biosolids storage areas from buildings occupied by the general public. Because the basis of this provision was to minimize the potential for nuisance odors, the Department believed it would be appropriate to allow neighboring building owner(s) to give permission for shorter setbacks.

However, due to your comments that this is an impermissible delegation of the Department's authority, the Department agrees to modify this subparagraph as follows:

4. Biosolids shall not be stored or stockpiled at a land application site within 1320 feet of a building occupied by the general public. ~~This distance may be decreased if the owner of the building provides written consent.~~

62-640.700(8)(b)1. The 300 foot setback distance for biosolids application to a building occupied by the general public in this subparagraph has been in the Department's regulations for the land application of biosolids since 1984 (referred to as domestic wastewater sludge under Chapter 17-7, F.A.C.). The original basis was EPA guidance for land application from the early 1980's. The setback distance of 300 feet corresponds to the setback distances for inhabited dwellings which were 50 to 300 feet for injected sludge and 300 to 1500 feet for surface-applied sludge. The current EPA regulations, Title 40 CFR Part 503 do not address or attempt to address setbacks from other property or dwellings so there is no comparable

setback distance in Part 503. However, research published in 2007 by Jordan Peccia of Yale indicates that the potential for aerolization of biosolids and then subsequent detection in decreasing amounts at distances of 5m, 65m, and 165m away from the application.²

The 300 foot setback distance serves two purposes. First, the distance provides a margin of safety for public health by minimizing the potential of exposure to Class B biosolids if runoff were to occur that carried biosolids toward the building as well as minimizing any potential exposure to airborne particles. Second, the setback distance serves to minimize potential nuisances, particularly from odors.

Even though many of the biosolids vector attraction reduction options help reduce odor, biosolids still have some level of odor. The odor can vary daily, even for the same wastewater treatment facility. The odor dispersement chart in Appendix B of the Water Environment Research Foundation document "Health Effects of Biosolids Odors: A Literature Review" indicates that a distance of 300 feet would result in a potential odor dilution factor of 1/15th from the original odor intensity. Since the biosolids would be applied in a thin layer over a large area, instead of concentrated at a single point as would occur with storage, any odors should dissipate as biosolids soak into the ground or dry.

However, due to your comments that this is an impermissible delegation of the Department's authority, the Department agrees to modify this subparagraph as follows:

1. Class B biosolids shall not be applied within 300 feet of a building occupied by the general public. This distance may be reduced to 100 feet if

² Baertsch, C., Paez-Rubio, T., Viau, E., Peccia, J., (2007) "Source tracking aerosols released from land-applied class B biosolids during high wind events, *Applied and Environmental Microbiology*, 73, 4522-4531.

Low, S.Y., Paez-Rubio, T., Baertsch, C., Kucharski, M., Peccia, J., (2007) "Off-site exposure to respirable aerosols produced during the disk- incorporation of class B biosolids" *Journal of Environmental Engineering*. 133, 987-994

Paez-Rubio, T., Ramarui, A., Sommer, J., Xin, H., Anderson, J. and Peccia, J., (2007) "Emission rates and characterization of aerosols produced during the spreading of dewatered class B biosolids" *Environmental Science and Technology*, 41, 3537-3544.

biosolids are injected into the soil or if written permission is obtained from the building owner.

- 62-640.700(8)(b)2.** The proposed 75 foot setback for land application of biosolids from property lines was proposed to address public concerns about the lack of any buffer to a property line. A buffer would provide some margin of safety to protect against potential exposure to biosolids by helping to retain the biosolids on the property if runoff were to occur sometime following application.

The 75 foot distance is consistent with the property line setback for land applied septage under the Florida Department of Health (FDOH) regulations Chapter 64E-6, F.A.C. The FDOH distance exists to provide a safety buffer for potential migration of septage from the application area by runoff or other cause. This distance matches the DOH required separation distance between septic tanks and drinking water wells set to avoid contamination of the wells. The distance would also provide some odor dilution but the reduction factor would only be about half of the original odor intensity.

- 62-640.850(2)** The Department agrees to modify this subsection as follows:

(2) Distributed and marketed biosolids or biosolids products shall be distributed and marketed as a fertilizer in accordance with Chapter 576, F.S., (2009) and Chapter 5E-1, F.A.C., 1-18-2010, hereby adopted and incorporated by reference, or distributed and marketed to a person or entity that will sell or give-away the biosolids or biosolids products as a fertilizer or as a component of a fertilizer subject to Chapter 576, F.S., and Chapter 5E-1, F.A.C. A copy of Chapter 576, F.S., and Chapter 5E-1, F.A.C., is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices.

- 62-640.850(3)(b)1.** The Department agrees to modify this subparagraph as follows:

1. The Florida fertilizer license number assigned in accordance with Florida's Commercial Fertilizer Law, Chapter 576, F.S., (2009), and Chapter 5E-1, F.A.C., 1-18-2010, both which are hereby adopted and incorporated by reference, under which the biosolids or biosolids products will be distributed and marketed (copies of Chapter 576, F.S.,

and Chapter 5E-1, F.A.C., are available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices);

62-640.850(3)(b)5. The Department agrees to modify this subparagraph as follows:

5. The label or information sheet to be provided at the time of distribution and marketing of the biosolids in accordance with subsection 62-640.850(5), F.A.C., Chapter 576, F.S., (2009) and Chapter 5E-1, F.A.C., 1-18-2010, both which are hereby adopted and incorporated by reference, as applicable (copies of Chapter 576, F.S., and Chapter 5E-1, F.A.C., are available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices);

62-640.850(7) The Department agrees to modify this subsection:

(7) By February 19 of each year, any person shipping biosolids to Florida for distribution and marketing shall submit a copy of the applicable EPA facility annual biosolids report required by 40 CFR 503.18, July 1, 2009, hereby adopted and incorporated by reference, to the Department's Domestic Wastewater Section, MS#3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. A copy of 40 CFR 503.18 is available from the Department of Environmental Protection, Domestic Wastewater Section, M.S. 3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any of the Department's District Offices.

The Department is still in the process of revising its statement of estimated regulatory cost (SERC) to address the lower cost regulatory alternative filed on behalf of Shelley's Septic Tanks, Inc. Once the SERC revisions are finalized I will send you a copy. If you have any questions, please call me at 245-2214.

Sincerely,



Justin G. Wolfe
Assistant General Counsel

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