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**Ken Kirk**

September 29, 2006

Mr. Maurice Barker  
FDEP Residual Coordinator  
MS#3540  
2600 Blair Stone Road  
Tallahassee, Fla. 32399-2400

Dear Mr. Barker:

The National Association of Clean Water Agencies (NACWA) appreciates this opportunity to offer the Florida Department of Environmental Protection (DEP) some initial thoughts and concerns regarding the DEP's draft biosolids rule. NACWA is a non-profit trade association representing the interests of nearly 300 clean water agencies nationwide, including over 15 member agencies in Florida.

NACWA has long been a proponent of ensuring municipal flexibility in determining the best biosolids management approach based on site-specific considerations. One beneficial approach is the reuse of biosolids via land application – an approach NACWA fully endorses so long as it is done in full compliance with the U.S. Environmental Protection Agency's (EPA) strict regulatory regime governing land application (40 CFR Part 503).

Several of NACWA's members in Florida have expressed concern that the DEP draft rule would result in a regulatory regime so strict that it would effectively, although perhaps unintentionally, ban land application. This, in turn, would force many communities to turn to potentially less environmentally beneficial, but more costly, management options. One concern in particular involves the draft provisions on nutrient management. NACWA urges the DEP to fully consider public agency comments that regulatory and enforcement programs already exist that can sufficiently address these concerns.

NACWA believes EPA's land application regulations provide a strong, scientifically-based framework for the management of biosolids. The beneficial use of biosolids in accordance with these regulations has undergone intensive scrutiny by EPA and the academic community and repeatedly has been deemed safe by objective scientific researchers – most notably a July 2002 report from the National Research Council (NRC) of the National Academy of Sciences finding no documented scientific evidence that the part 503 rules have failed to protect public health.

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While state rules that account for local conditions are a vital part of biosolids management nationwide, and generally complement the federal Part 503 regulations, NACWA maintains that such regulations must be supported by valid science and must not preclude any of the management options available to municipalities. Indeed, a September 15, 2006 letter from EPA's Director of the Office of Wastewater Management, Jim Hanlon, to NACWA, echoes this sentiment, noting that:

The Part 503 regulations establish minimum requirements for three use and disposal options for biosolids - land application, surface disposal, and incineration - all based on best available science. EPA believes that all three of these methods, including biosolids land application, when conducted in accordance with the Part 503 requirements, are protective of human health and the environment.

NACWA's members in Florida are supportive of reasonable state standards that will ensure the protection of Florida's valuable groundwater and surface water resources. However, the current proposal has raised serious concerns among municipalities regarding the long-term viability of land application in Florida, namely that the additional administrative burdens imposed would act as a major disincentive to the reuse of biosolids and perhaps even a *de facto* ban.

In its September 15 letter, EPA states its position clearly:

Wastewater agencies across the country have widely relied upon land application as a method for managing biosolids. Specifically, well over fifty percent of the total volume of biosolids produced in the United States is currently land applied. Land application of biosolids is thus clearly an important option for municipalities to have, and EPA believes that it should be available to all municipalities wherever possible as an option for biosolids management. The application of biosolids to farmland serves to help meet several important environmental goals, including improving soil and preserving increasingly scarce landfill capacity for wastes not appropriate for recycling.

NACWA encourages the DEP to reconsider the current draft of its proposed revisions and to work with Florida municipalities to find the right balance of protection and flexibility to ensure that land application remains an available option for the management of biosolids.

Sincerely,

A handwritten signature in black ink, appearing to read "K Kirk". The signature is written in a cursive, somewhat stylized font.

Ken Kirk  
Executive Director