



June 11, 2013

Ms. Bridget Bohac    MC-105  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Comments on Petition for Rulemaking  
**Docket No.: 2013-0939, June 18, 2013**  
Project No.: 2013-033-PET-NR

The Water Environment Association of Texas (WEAT) and the Texas Association of Clean Water Agencies (TACWA) appreciate the opportunity to comment on the petition for rulemaking for sludge land application, Docket No. 2013-0939. WEAT and TACWA members are responsible for the design, operation, and maintenance of publically owned wastewater collection and treatment systems all across Texas. As such, our members have extensive firsthand knowledge and experience with sewage sludge land application.

### Background

Every day, wastewater treatment facilities across our state treat millions of gallons of wastewater generated by homes and businesses. The treatment process produces liquid effluent that is either discharged to water bodies or reused. The treatment process also produces a byproduct of solid residues (sewage sludge) that must be managed in an environmentally responsible manner. Although the terms “biosolids” and “sewage sludge” are often used interchangeably, they are not the same. With further treatment, sewage sludge can yield biosolids, which is defined by the U.S. Environmental Protection Agency (EPA) as *“nutrient-rich organic materials resulting from the treatment of domestic sewage in a treatment facility... that can be recycled and applied as fertilizer to improve and maintain productive soils*

*and stimulate plant growth.*" See attached, Water Environment Federation (WEF) Land Application and Composting of Biosolids Fact Sheet.

The benefits of biosolids for both soil and vegetation are numerous and well recognized. Biosolids provide primary nutrients (nitrogen and phosphorous) and secondary nutrients such as calcium, iron, magnesium and zinc. Also, the use of biosolids increases crop yields and maintains nutrients in the root zone and unlike chemical fertilizers, biosolids provide nitrogen that is released slowly over the growing season as the nutrient is mineralized and made available for plant uptake. Land application of biosolids can also offer net greenhouse gas benefits by recycling carbon to the soil and fertilizing vegetation for further carbon dioxide capture. And just as important, the land application of biosolids for beneficial use reduces the amount of material that must be disposed of otherwise via a landfill.

The benefits of biosolids are also summarized in the attached National Biosolids Partnership (NBP) report, wherein it is estimated that over 45% of the nation's biosolids are land applied.

### Recommendations

As noted in the Executive Director's (ED) staff memo dated May 30, 2013, Class A and Class B biosolids used for land application are already heavily regulated by the state and by the USEPA. We believe it is premature to assume that rulemaking is necessary to address the petitioner's concerns and therefore, we disagree with the ED's recommendation for additional rulemaking for the following reasons:

- The petitioner is concerned about odors from one particular site in Ellis County, but it would be injurious to public policy precedent if rulemaking is used to deal with an isolated incident. Moreover, the TCEQ rarely uses bracketed regulations unless they are legislatively driven and adopted by statute. See 30 Tex. Admin. Code § 291.161(1) which was amended by S.B. 361 during the 81<sup>st</sup> legislative session to include the bracketed segments.
- We believe TCEQ already has tools at its disposal to deal with complaints of this nature, e.g., odor control investigation protocols, and requiring the responsible party to develop an odor control plan with site specific measures to deal with odors.

We suggest that TCEQ pursue a course of action similar to what is described in the Executive Director's memorandum, but without assuming that rulemaking is necessary. We recommend the TCEQ staff evaluate the issues raised in the petition as well as other documented nuisance odor issues at bulk sewage sludge land application sites through a stakeholder process to

evaluate operational and regulatory options to address nuisance odors – statewide, or by geographic area. TCEQ has an excellent means to engage stakeholders through its standing Water Quality Advisory Work Group (WQAWG). This group includes engineers, scientists, utilities, academicians, and other experts that deal with water quality and wastewater issues, including biosolids management. The WQAWG could be used as the stakeholder venue and an ad hoc advisory committee could be created to deal with this limited issue. The WQAWG would vet the issues in a more holistic and less hurried manner and make a recommendation to the ED using sound science. Then, the ED's staff could make recommendations on the most effective operational and regulatory options to address nuisance odors under the current regulatory framework, which may or may not require rulemaking. WEAT and TACWA believe that this approach is very much aligned with the ED's recommendation, the only difference being that there is not an immediate assumption that changes to Chapter 312 are necessary. If the WQAWG vetting process determines rule changes are needed, that process can always be engaged by the ED without the need for a petition.

WEAT and TACWA stand ready to assist the agency with whatever technical support is needed in its evaluation process. We have access to technical experts from across the country who have vast experience with these issues in other states, and who can be available to advise and assist the agency.

Thank you for the opportunity to comment. If you need any additional information, feel free to contact me at 512-924-2102 or [carol@weat.org](mailto:carol@weat.org).

Sincerely,



Carol Batterton  
Executive Director  
Water Environment Association of Texas  
Texas Association of Clean Water Agencies  
1825 Fortview Road Suite 102  
Austin, Texas 78704