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December 12, 2024

To: Minnesota Pollution Control Agency

Re: Draft Minnesota Biosolids PFAS Strategy for Land Application of  
Biosolids

To whom it may concern:

Midwest Biosolids Association (MBA) is a consortium comprising municipalities, businesses, and various entities spanning nine Midwestern states and adjacent Canadian provinces. MBA is committed to advocating for the environmentally responsible management of biosolids, particularly recognizing their importance as a resource produced through the invaluable services provided by the wastewater treatment industry to our communities.

MBA appreciates Minnesota Pollution Control Agency's (MPCA) proactive approach in developing a PFAS strategy for land-applied biosolids and commends MPCA for aligning with approaches used in neighboring states and engaging with stakeholders throughout the process. MBA offers the following comments for consideration as MPCA finalizes the PFAS strategy.

**1. Adjust the levels for the four Tiers of PFOA and PFOS:**

We recommend adjusting the PFOS and PFOA concentration levels for the four tiers as follows:

- Tier 1:  $\leq 20 \mu\text{g/kg}$
- Tier 2:  $21\text{-}50 \mu\text{g/kg}$
- Tier 3:  $51\text{-}125 \mu\text{g/kg}$
- Tier 4:  $\geq 125 \mu\text{g/kg}$

These adjustments better reflect practical thresholds for interpretation and application of the sampling results.

**2. Increase the Application Rate for Tier 3.**

The current requirement to reduce the application rate to 1.5 dry tons per acre is operationally impractical for biosolids with solids content exceeding 15%. Additionally, 1.5 dry tons per acre typically do not meet crop nutrient requirements. We recommend increasing the Tier 3 application rate to 3-5 dry tons per acre to ensure operational feasibility and adequate nutrient supply for crop production.

***"The Voice of the Biosolids Management and Regulatory Community in the Midwest"***

3. **Wait for Federal Regulations and State Actions to Unfold.**

MPCA should consider delaying the implementation of the strategy until further federal actions unfold and state regulatory developments begin to take effect:

1. Federal Regulations:

The U.S. EPA is expected to release a draft risk assessment for PFOS and PFOA in land-applied biosolids by the end of 2025, which could eventually lead to regulatory limits. The current requirement for Wastewater Treatment Facilities (WWTFs) to notify farmers if PFOS or PFOA levels exceed 19 µg/kg could become problematic if the EPA sets a lower threshold. Such notifications might be misconstrued as admissions of applying biosolids above legal limits, potentially exposing WWTFs and land appliers to liability claims.

2. Impact of Amara's Law:

Minnesota's Amara's Law (Minn. Stat. § 116.943), effective January 1, 2025, prohibits intentionally added PFAS in 11 categories of consumer products. This law is expected to reduce PFAS discharges into wastewater treatment plants, subsequently lowering PFOS and PFOA levels in biosolids. MPCA should consider the benefits of this law before finalizing the strategy.

4. **Clarify Sampling Requirements**

To ensure accurate and representative PFAS sampling in biosolids, we recommend the following clarifications:

1. Multiple Samples:

One sample may not adequately represent all biosolids intended for land application. The strategy should provide guidelines for collecting samples, collecting composite, to ensure that the samples are representative.

2. Resampling Option:

The strategy should allow facilities to resample to confirm initial results before implementing any required actions.

Thank you for considering these comments to improve practical application and effectiveness of the strategy.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mohammed Haque".

Mohammed Haque, Executive Director

Midwest Biosolids Association