STATE OF NEW YORK

10138

IN ASSEMBLY

February 5, 2026

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the management of PFAS in biosolids; and to amend the agriculture and markets law and the state finance law, in relation to establishing the PFAS agricultural response program and the agricultural PFAS response fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 8 to read as follows:

TITLE 8

MANAGEMENT OF PFAS IN BIOSOLIDS

Section 27-0801. Definitions.
27-0803. Testing and reporting.
27-0805. Moratorium on the sale and use of biosolids.

§ 27-0801. Definitions.

As used in this title:

1. "Biosolids" means the accumulated semi-solids, solids or liquids resulting from treatment of wastewaters from publicly or privately owned or operated sewage treatment plants.

2. "Enterprise budget" means an estimation of the revenue, costs, and profits for a farm.

3. "Monitoring" means sampling of biosolids from wastewater treatment facilities, soil samples and/or water samples from agricultural land to determine the concentration of PFAS present.

4. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

5. "Permit holder" means a farmer or other landowner authorized to spread biosolids under a permit granted pursuant to NYCRR Part 361-2.4.

6. "Previous permit holder" means a permit holder who has a permit that has expired within the five years previous to the effective date of this title.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14447-03-6

7. "Wastewater treatment facility" means any facility that treats wastewater, including but not limited to municipal sewage treatment plants, industrial wastewater treatment plants, and septage treatment facilities.

§ 27-0803. Testing and reporting.

1. No later than one year from the effective date of this title, the department, in consultation with the department of health, shall promulgate rules and regulations which add perfluoroalkyl and polyfluoroalkyl substances as a parameter of concern for analysis within NYCRR Part 361.2.4.

(a) Such regulations shall, at a minimum, do the following:

(i) establish protocols for soil testing, requiring all permit holders and previous permit holders to test lands where biosolids have been applied at least quarterly for one year;

(ii) establish protocols and require the department of health to test drinking water wells at least quarterly for one year where such wells are within one half mile of lands where biosolids have been applied; and

(iii) establish protocols for testing and require the department of health to test surface water at least quarterly for one year where such surface water is within one mile of lands where biosolids have been applied;

(b) Regulations promulgated pursuant to this title regarding testing protocols and the timing of sampling for testing of well water and surface water shall take into account the effects of rainfall events and precipitation patterns, as well as weather and temperature changes in determining the timing of sampling; and

(c) Regulations promulgated pursuant to this title shall require permit holders to submit the results of such monitoring to the department quarterly.

2. Regulations promulgated pursuant to this title shall require all wastewater treatment facilities to test biosolids for PFAS chemicals quarterly for five years and report the results to the department.

3. Testing and evaluation of permitted sites shall be conducted using a PFAS testing method or methods authorized by the department. The department shall immediately authorize EPA Method 1633A as an approved testing method. The department shall authorize additional methods that detect more PFAS as such methods become available and shall require that the method that detects the largest number of PFAS (at equal or lower detection limits than EPA Method 1633A) shall be used.

4. The department shall establish and maintain a publicly accessible database of disaggregated soil, biosolid (differentiating biosolid data sourced from wastewater treatment facilities and from permit holders), and water testing results within eighteen months of the effective date of this title. Such database shall use best practices standards for data collection and dissemination, including standardization and cleaning of data, and shall make such data available to the public in commonly used data formats. Data collected from soil or water samples taken from private lands and wells shall be aggregated by department of environmental conservation region, in a form which excludes specific addresses, locations, or other personally identifying information. The database shall also include records for all previously conducted testing of biosolids for PFAS funded with public monies within New York state.

§ 27-0805. Moratorium on the sale and use of biosolids.

1. For the period commencing one year from the effective date of this title and ending five years after such date, a moratorium shall be

established on the land application, and issuance, renewal, or approval of any permits related thereto, of:

(a) biosolids generated from a publicly or privately owned or operated wastewater treatment facility;

(b) compost material that included in its production biosolids generated from a publicly or privately owned or operated wastewater treatment facility; and

(c) any other product or material that is intended for use as a fertilizer, soil amendment, topsoil replacement or mulch, or for other similar agricultural purposes including parks, golf courses, or other non-crop land applications, that is derived from or contains biosolids generated from a publicly or privately owned or operated wastewater treatment facility.

2. For the period commencing on the effective date of this title and ending five years after such date, a moratorium shall be established on selling, offering for sale, distributing, or otherwise providing biosolids, including products containing biosolids, in the state for use as fertilizer, soil amendment, topsoil replacement, mulch, or for other similar purposes.

3. The moratoria in subdivisions 1 and 2 of this section shall not apply to:

(a) the disposal or placement at a solid waste landfill of any of the materials that are prohibited from application, spreading, sale or distribution by this section; or

(b) the land application of or the sale or distribution of compost materials or other agricultural products or materials derived from or containing residuals generated as a result of the processing or cultivation of food, food waste, crops or vegetative material, manure, litter, food processing waste, process wastewater from any animal feeding operation, digestate from such materials, or any other product or material that is not derived from or does not contain biosolids.

§ 2. The environmental conservation law is amended by adding a new section 71-2704 to read as follows:

§ 71-2704. Violations of title 8 of article 27 of this chapter.

A person who violates any of the provisions of, or who fails to perform any duty imposed by title 8 of article 27 of this chapter, or the rules, regulations, orders or determinations of the commissioner promulgated thereto, shall be liable for a penalty of not to exceed twenty-five hundred dollars for each such violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the attorney general at the request and in the name of the commissioner.

§ 3. The agriculture and markets law is amended by adding a new article 11-C to read as follows:

ARTICLE 11-C

SOIL HEALTH AND PFAS AGRICULTURE RESPONSE PROGRAM

§ 151-p. PFAS agricultural response program.

§ 151-p. PFAS agricultural response program. 1. For the purposes of this article:

(a) "Biosolids" means the accumulated semi-solids or solids resulting from treatment of wastewaters from publicly or privately owned or operated sewage treatment plants.

(b) "Enterprise budget" means an estimation of the revenue, costs and profits for a farm.

(c) "Monitoring" means sampling of biosolids from soil samples and/or water samples from agricultural land to determine the concentration of PFAS present.

(d) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

2. Within one year of the effective date of this article, the department, in consultation with the department of environmental conservation, shall establish a PFAS agricultural response program to assist farms found to have levels of PFAS contamination which exceed regulatory standards established pursuant to title eight of article twenty-seven of the environmental conservation law.

3. The program shall, at a minimum:

(a) pursuant to an appropriation therefor, provide grants to farmers and other landowners with land found to exceed the thresholds for PFAS established pursuant to title eight of article twenty-seven of the environmental conservation law for the purpose of short-term income supplementation or replacement, including but not limited to, reimbursing farmers for the value of crops lost as a result of PFAS contamination;

(b) assist farmers and other landowners with planning and the development of enterprise budgets to address land or water found to be contaminated by PFAS. Such enterprise budgets may include, but need not be limited to, costs associated with the implementation of:

(i) alternative cropping systems;

(ii) remediation strategies;

(iii) technological adaptations;

(iv) transitioning to alternative revenue streams, including but not limited to transitioning to alternative land use systems; and

(v) locating alternative viable farmland;

(c) pursuant to an appropriation therefor, provide grants for the purchase of transitional equipment and infrastructure for farmers and other landowners to: (i) support a transition to an alternative cropping system; and (ii) implement remediation strategies, technological adaptations, or other modifications to the farmer or other landowner's operations in response to PFAS contamination;

(d) develop best practices to mitigate further PFAS contamination, including but not limited to, alternative cropping systems; and

(e) provide for testing of biosolids and biosolids-derived compost products, agricultural products, livestock, soil and water of adjacent properties where it is suspected there may be contamination related to the spreading of biosolids, and feedstock produced on lands where biosolids were spread. During the five-year moratorium on land application of biosolids pursuant to section 27-0803 of the environmental conservation law, the department shall provide notice of such monitoring and testing to the public, including to adjacent impacted communities, through public outreach to community members and by posting information on the department's website.

§ 4. The state finance law is amended by adding a new section 95-l to read as follows:

§ 95-l. Agricultural PFAS response fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the "agricultural PFAS response fund".

2. Such fund shall consist of monies appropriated, credited, or transferred thereto from any other fund or source pursuant to law.

3. All monies deposited in the agricultural PFAS response fund shall be available for the purposes of the PFAS agricultural response program pursuant to article eleven-C of the agriculture and markets law.

4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of the department of agriculture and markets.

§ 5. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect immediately.