

STATE OF NEW YORK

10138--A

IN ASSEMBLY

February 5, 2026

Introduced by M. of A. KELLES, SIMON, DeSTEFANO -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Article 27 of the environmental conservation law is amended
2 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:

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

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

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

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

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

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

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1 6. "Wastewater treatment facility" means any facility that treats
2 wastewater, including but not limited to municipal sewage treatment
3 plants, industrial wastewater treatment plants, and septage treatment
4 facilities.

5 7. "Class A biosolids" means biosolids that have been highly treated
6 to reduce pathogens to undetectable levels, allowing unrestricted use.

7 8. "Class B biosolids" means biosolids that have been moderately
8 treated to reduce pathogens to lower but detectable levels, and which
9 may require site restrictions, buffer zones, and waiting periods for
10 harvesting of crops or public access.

11 § 27-0803. Testing and reporting.

12 1. No later than one year from the effective date of this title, the
13 department, in consultation with the department of health, shall promul-
14 gate rules and regulations which add perfluoroalkyl and polyfluoroalkyl
15 substances as a parameter of concern for analysis within NYCRR Part
16 361.2.4.

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

18 (i) establish a protocol to incentivize farmers to:

19 (1) apply to the department for the department to perform PFAS soil
20 testing on land where Class A biosolids or Class B biosolids have been
21 applied; or

22 (2) contract with a laboratory or provider verified by the department
23 to conduct PFAS soil testing on land where Class A biosolids or Class B
24 biosolids have been applied and submit the results to the department;

25 (ii) provide that a landowner who has satisfied the testing and
26 reporting requirements established pursuant to this section may apply
27 for reimbursement of the costs of perfluoroalkyl and polyfluoroalkyl
28 substances soil testing through the soil health and PFAS agriculture
29 response program established pursuant to article eleven-C of the agri-
30 culture and markets law;

31 (iii) require that perfluoroalkyl and polyfluoroalkyl substances soil
32 testing conducted pursuant to this section be performed on a quarterly
33 basis for a period of not less than one year;

34 (iv) establish standards for demonstrating prior application of Class
35 A biosolids or Class B biosolids on agricultural land, which may
36 include, but shall not be limited to, historic or current permits, proof
37 of prior use of Class A biosolids, or other documentation or means as
38 determined by the department;

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

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

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

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

54 3. Testing and evaluation of permitted sites shall be conducted using
55 a PFAS testing method or methods authorized by the department. The
56 department shall immediately authorize EPA Method 1633A as an approved

1 testing method. The department shall authorize additional methods that
2 detect more PFAS as such methods become available and shall require that
3 the method that detects the largest number of PFAS (at equal or lower
4 detection limits than EPA Method 1633A) shall be used.

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

18 § 27-0805. Moratorium on the sale and use of biosolids.

19 1. For the period commencing one year from the effective date of this
20 title and ending five years after such date, a moratorium shall be
21 established on the land application, and issuance, renewal, or approval
22 of any permits related thereto, of:

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

25 (b) compost material that included in its production biosolids gener-
26 ated from a publicly or privately owned or operated wastewater treatment
27 facility; and

28 (c) any other product or material that is intended for use as a ferti-
29 lizer, soil amendment, topsoil replacement or mulch, or for other simi-
30 lar agricultural purposes including parks, golf courses, or other non-
31 crop land applications, that is derived from or contains biosolids
32 generated from a publicly or privately owned or operated wastewater
33 treatment facility.

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

40 3. The moratoria in subdivisions one and two of this section shall not
41 apply to:

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

45 (b) the land application of or the sale or distribution of compost
46 materials or other agricultural products or materials derived from or
47 containing residuals generated as a result of the processing or culti-
48 vation of food, food waste, crops or vegetative material, manure,
49 litter, food processing waste, process wastewater from any animal feed-
50 ing operation, digestate from such materials, or any other product or
51 material that is not derived from or does not contain biosolids.

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

54 § 71-2704. Violations of title 8 of article 27 of this chapter.

55 A person who violates any of the provisions of, or who fails to
56 perform any duty imposed by title 8 of article 27 of this chapter, or

1 the rules, regulations, orders or determinations of the commissioner
2 promulgated thereto, shall be liable for a penalty of not to exceed
3 twenty-five hundred dollars for each such violation and an additional
4 penalty of not more than five hundred dollars for each day during which
5 such violation continues, and, in addition thereto, such person may be
6 enjoined from continuing such violation. Penalties and injunctive relief
7 provided herein shall be recoverable in an action brought by the attor-
8 ney general at the request and in the name of the commissioner.

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

11 ARTICLE 11-C

12 SOIL HEALTH AND PFAS AGRICULTURE RESPONSE PROGRAM

13 § 151-p. PFAS agricultural response program.

14 § 151-p. PFAS agricultural response program. 1. For the purposes of
15 this article:

16 (a) "Biosolids" means the accumulated semi-solids or solids resulting
17 from treatment of wastewaters from publicly or privately owned or oper-
18 ated sewage treatment plants.

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

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

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

27 2. Within one year of the effective date of this article, the depart-
28 ment, in consultation with the department of environmental conservation,
29 shall establish a PFAS agricultural response program to assist farms
30 found to have levels of PFAS contamination which exceed regulatory stan-
31 dards established pursuant to title eight of article twenty-seven of the
32 environmental conservation law. The commissioner shall be authorized to
33 administer state assistance payments to soil and water conservation
34 districts for purposes of this program.

35 3. The program shall, at a minimum:

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

42 (b) assist farmers and other landowners with planning and the develop-
43 ment of enterprise budgets to address land or water found to be contam-
44 inated by PFAS. Such enterprise budgets may include, but need not be
45 limited to, costs associated with the implementation of:

46 (i) alternative cropping systems;

47 (ii) remediation strategies;

48 (iii) technological adaptations;

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

51 (v) locating alternative viable farmland;

52 (c) pursuant to an appropriation therefor, provide grants for the
53 purchase of transitional equipment and infrastructure for farmers and
54 other landowners to: (i) support a transition to an alternative cropping
55 system; and (ii) implement remediation strategies, technological adapta-

1 tions, or other modifications to the farmer or other landowner's oper-
2 ations in response to PFAS contamination;

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

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

15 (f) provide for reimbursement for PFAS testing to farmers who make an
16 application for such state assistance payment in partnership with the
17 relevant local soil and water conservation district, as prescribed in
18 section 27-0803 of the environmental conservation law.

19 § 4. The state finance law is amended by adding a new section 95-1 to
20 read as follows:

21 § 95-1. Agricultural PFAS response fund. 1. There is hereby estab-
22 lished in the joint custody of the comptroller and the commissioner of
23 taxation and finance a special fund to be known as the "agricultural
24 PFAS response fund".

25 2. Such fund shall consist of monies appropriated, credited, or trans-
26 ferred thereto from any other fund or source pursuant to law.

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

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

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

42 § 6. This act shall take effect immediately.