

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

1 7. "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 § 27-0803. Testing and reporting.

6 1. No later than one year from the effective date of this title, the
7 department, in consultation with the department of health, shall promul-
8 gate rules and regulations which add perfluoroalkyl and polyfluoroalkyl
9 substances as a parameter of concern for analysis within NYCRR Part
10 361.2.4.

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

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

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

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

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

27 (c) Regulations promulgated pursuant to this title shall require
28 permit holders to submit the results of such monitoring to the depart-
29 ment quarterly.

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

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

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

53 § 27-0805. Moratorium on the sale and use of biosolids.

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

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

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

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

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

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

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

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

25 (b) the land application of or the sale or distribution of compost
26 materials or other agricultural products or materials derived from or
27 containing residuals generated as a result of the processing or culti-
28 vation of food, food waste, crops or vegetative material, manure,
29 litter, food processing waste, process wastewater from any animal feed-
30 ing operation, digestate from such materials, or any other product or
31 material that is not derived from or does not contain biosolids.

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

34 § 71-2704. Violations of title 8 of article 27 of this chapter.

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

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

47 ARTICLE 11-C

48 SOIL HEALTH AND PFAS AGRICULTURE RESPONSE PROGRAM

49 § 151-p. PFAS agricultural response program.

50 § 151-p. PFAS agricultural response program. 1. For the purposes of
51 this article:

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

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

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

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

7 2. Within one year of the effective date of this article, the depart-
8 ment, in consultation with the department of environmental conservation,
9 shall establish a PFAS agricultural response program to assist farms
10 found to have levels of PFAS contamination which exceed regulatory stan-
11 dards established pursuant to title eight of article twenty-seven of the
12 environmental conservation law.

13 3. The program shall, at a minimum:

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

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

24 (i) alternative cropping systems;

25 (ii) remediation strategies;

26 (iii) technological adaptations;

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

29 (v) locating alternative viable farmland;

30 (c) pursuant to an appropriation therefor, provide grants for the
31 purchase of transitional equipment and infrastructure for farmers and
32 other landowners to: (i) support a transition to an alternative cropping
33 system; and (ii) implement remediation strategies, technological adapta-
34 tions, or other modifications to the farmer or other landowner's oper-
35 ations in response to PFAS contamination;

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

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

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

50 § 95-1. Agricultural PFAS response fund. 1. There is hereby estab-
51 lished in the joint custody of the comptroller and the commissioner of
52 taxation and finance a special fund to be known as the "agricultural
53 PFAS response fund".

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

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

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

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

16 § 6. This act shall take effect immediately.