STATE OF NEW YORK

5759--B

2025-2026 Regular Sessions

IN SENATE

February 28, 2025

Introduced by Sens. HARCKHAM, CLEARE, COMRIE, FAHY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, MAYER, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Agriculture -- 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 establishing the New York state biosolids task force; 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; and providing for the repeal of certain provisions upon expiration thereof

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. Moratorium on land application of biosolids.
27-0805. Testing and reporting.

§ 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.

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

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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 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.

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. Moratorium on land application of biosolids.

1. For the period commencing on the effective date of this title and ending five years after such date, a moratorium shall be established on the land application of:

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

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

(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 plant.

2. The moratorium shall apply to all existing permits, renewals, and new applications.

3. The moratorium 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.

§ 27-0805. Testing and reporting.

1. The department 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) Within one year of the effective date of this title, the department shall promulgate regulations establishing a perfluoroalkyl and polyfluoroalkyl substances biosolids testing and reporting program that 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 for testing drinking water wells at least quarterly for one year where such wells are within one half mile of lands where biosolids have been applied;

(iii) establish protocols for testing 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.

(c) Permit holders shall submit the results of such monitoring to the department quarterly; provided, however, that permit holders shall submit their first monitoring results within six months from the effective date of this title.

2. The department 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 facility and from permit holders), and water testing results within six 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 with New York state.

§ 2. 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 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.

§ 3. 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.

§ 4. Article 27 of the environmental conservation law is amended by adding a new title 6 to read as follows:

TITLE 6
NEW YORK STATE BIOSOLIDS TASK FORCE

Section 27-0601. New York State biosolids task force.
27-0603. Definitions.
27-0605. Task force composition.
27-0607. Powers and duties.

§ 27-0601. New York State biosolids task force.

There is hereby established within the department the New York state biosolids task force to evaluate the risks and benefits of various methods of biosolids disposal within the state with respect to the risks posed by PFAS chemicals and to investigate a path forward for New York state biosolid disposal that is maximally protective of human and ecosystem health.

§ 27-0603. Definitions.

As used in this title:

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

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

3. "Monitoring" means sampling of biosolids from wastewater treatment facilities, soil samples and/or groundwater 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. "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 article.

6. "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.

§ 27-0605. Task force composition.

1. The task force shall be composed of thirteen members as follows:

(a) the commissioner, or the commissioner's designee, who shall be the chair of the task force;

(b) one member from the department;

(c) one member from the department of health;

(d) one member from the department of agriculture and markets;

(e) three members appointed by the governor as follows:

(i) one of whom shall represent wastewater treatment utilities;

(ii) one of whom shall have a background or expertise in solid waste and organics recycling; and

(iii) one of whom shall have a background or expertise in soil and crop health and toxic contamination;

(f) two members appointed by the temporary president of the senate, one of whom shall represent the public and shall have a background or expertise in PFAS contamination and/or toxicology and health risk assessment;

(g) two members appointed by the speaker of the assembly, one of whom shall represent the public and shall have a background or expertise in PFAS contamination and/or toxicology and health risk assessment;

(h) one member appointed by the minority leader of the senate; and

(i) one member appointed by the minority leader of the assembly.

2. The members of the task force shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this title.

3. The task force shall meet at such times and places as may be determined by its chair; provided, however, that the task force shall meet at a minimum of six times per year.

4. A majority of the members of the task force shall constitute a quorum for the transaction of business. Action may be taken, and motions and resolutions adopted, at any meeting by the affirmative vote of a majority of the full membership of the task force.

§ 27-0607. Powers and duties.

1. The task force shall:

(a) Review the draft "Sewage Sludge Risk Assessment for Perfluorooctanoic Acid (PFOA) CASRN 335-67-1 and Perfluorooctane Sulfonic Acid (PFOS) CASRN 1763-23-1", dated January two thousand twenty-five, and monitor comments provided to the United States environmental protection agency and any revisions to the risk analysis;

(b) Analyze the pathways of human exposure to PFAS and how biosolids applied to land contribute to such exposure;

(c) Support the department in any regulatory processes related to PFAS in biosolids, prioritizing efficient processes and applying the best available science;

(d) Evaluate mitigation strategies to reduce the risk of human, ecosystem, and wildlife exposure from land application of biosolids;

(e) Review and summarize, including but not limited to the actions of other states and regional and federal agencies to understand the risks and consequences of such actions, the use and effects of PFAS and biosolids, including, but not limited to:

(i) Continued land application;

(ii) Allowances for and use of biosolid derived fertilizer products;

(iii) Land application bans;

(iv) Landfilling;

(v) Incineration; and

(vi) Mitigation of PFAS through industrial pretreatment programs and source identification;

(f) Work with the department to summarize current data and provide recommendations, including recommendations for where more data may be required;

(g) Review existing standards for PFAS contamination within soil, water, air, and biosolids, both in New York and at the federal level;

(h) Review possible PFAS remediation strategies for PFAS contamination within soil, water, air, and biosolids;

(i) Review and summarize the remaining capacity of landfills and incineration facilities to accept biosolids. Such review shall consider the impact across the different regions within the state and environmental justice areas, including the impact of PFAS-rich landfill leachate disposal via wastewater treatment plants;

(j) Review and evaluate alternative methods of and emergent technologies for managing contaminated biosolids;

(k) Review and evaluate PFAS destroying technologies, including the risks to human and environmental health, and the current state of deployment and barriers to the deployment of such technologies;

(l) Determine financial, environmental, and health impacts of different pathways for managing biosolids;

(m) Evaluate the risks, implications, and levels of PFAS in food products grown on land where biosolids have been applied or livestock fed crops grown on land where biosolids have been applied;

(n) Where possible, work with other regional authorities to understand their intent of biosolids management in their jurisdictions to determine impacts of the limitations of biosolids disposal and end uses;

(o) Conduct a minimum of two public hearings for input annually;

(p) Issue an interim progress report at the end of the first year. The interim report shall be delivered to the department and the legislature and be posted publicly on the department's website; and

(q) Issue a final report at the end of the second year. The final report shall be delivered to the department and the legislature and be posted publicly on the department's website.

2. The task force shall have the power to:

(a) contract for professional and technical assistance and advice;

(b) conduct scientific and environmental studies.

3. The department, the department of agriculture and markets, and the department of health shall provide the task force with such facilities, assistance and data as will enable the task force to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof shall, at the request of the chair, provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

§ 5. This act shall take effect immediately; provided, however, that sections 27-0801 and 27-0805 of the environmental conservation law as added by section one of this act and sections two, three, and four of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided further, however, that section 27-0803 of the environmental conservation law as added by section one of this act shall expire five years after such effective date when upon such date the provisions of such section shall be deemed repealed; provided further, however, that section four of this act shall expire and be deemed repealed one hundred twenty days after the New York State biosolids task force has submitted its final report pursuant to section 27-0607 of the environmental conservation law as added by section four of this act; provided further, however, that the commissioner of environmental conservation shall notify the legislative bill drafting commission upon the submission of the final report pursuant to section 27-0607 of the environmental conservation law as added by section four of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.