

CHAPTER 70: FOOD PROCESSING RESIDUAL LAND APPLICATION AND STORAGE

[HISTORY: Adopted by the Board of Supervisors of the Township of Antrim 4-8-2025 by Ord. No. 367. Amendments noted where applicable.]

Section

- 70-1 Purpose, Application and Definitions
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70-1 PURPOSE, APPLICATION AND DEFINITIONS.

A. The purpose of this Chapter is to establish uniform standards for land application of food processing residual (FPR), as the term FPR is defined by the Pennsylvania Department of Environmental Protection (PA DEP) in Antrim Township (Township). While the Township recognizes that PA DEP and the Courts of the Commonwealth have determined that land application of FPR is a normal agricultural operation ; and that the land application of FPR should comply with PA DEP rules, regulations, standards and best management practices, including those set forth in the Food Processing Residual Management Manual, PA DEP document number 245-5400-100, as may be amended or revised (collectively FPR Manual), the Township also recognizes that it has an obligation to protect public safety and to minimize the adverse effects of such land application of FPR and/or the drainage or other discharge of FPR, including, without limitation, protecting wells and drinking water, through the standards set forth in the following provisions.

B. This Chapter shall apply in all respects to the following:

(1) Lessees or other persons or entities who are authorized by a property owner, directly or indirectly, to engage in agriculture or other activities on the owner s property and on which property such lessees or other persons or entities intend to store or apply FPR;

(2) Any Property owner who owns property that is both in this Township and any adjacent municipality, where such property owner (i) intends to store FPR on their property in the adjacent municipality, (ii) apply FPR to that property, and (iii) drain or otherwise discharge FPR from storage or elsewhere on or in that property to the owner s property in this Township;

(3) Lessees or other persons or entities who are authorized by a property owner to engage in agriculture or other activities on the owner's property, where (i) the owner owns property that is both in this Township and an adjacent municipality, (ii) such lessees or other persons or entities intend to apply FPR to the owner's property in the adjacent municipality, and (iii) such lessees or property owners intend to store FPR on that property and drain or otherwise discharge FPR from storage or elsewhere on or in that property to the owner's property in this Township.

(4) Any property owner in the Township that applies or stores FPR on their property in connection with a normal agricultural operation.

C. For the purposes of this Chapter, certain words shall have the meanings assigned to them, as follows.

Words used in the present tense include the future. The singular number includes the plural, and the plural, the singular.

ASTM LEACHING TEST

American Society for Testing Materials leaching test.

E&S PLAN

Erosion and Sediment Control Plan as described and defined in Chapter 102 of Title 25 of the Pennsylvania Code.

FPR OR FOOD PROCESSING RESIDUAL

Incidental organic material generated by processing agricultural commodities for human or animal consumption. The term includes food residuals, food coproducts, food processing wastes, food processing sludges, or any other incidental material whose characteristics are derived from processing agricultural products as further described and defined in the FPR manual. Examples include: process wastewater from cleaning slaughter areas, rinsing carcasses, or conveying food materials; process wastewater treatment sludges, blood, bone; fruit and vegetable peels; seeds; shells; pits; cheese whey; off-specification food products; hides, hair; and feathers.

FPR MANUAL

PA DEP rules, regulations, standards and best management practices, including those set forth in the Food Processing Residual Management Manual, PA DEP document number 245-5400-100, as may be amended or revised

FPR STORAGE PLAN

A design plan, signed and sealed by engineer, architect, or other design professional acceptable to the Township and licensed in the Commonwealth of Pennsylvania; and narrative plan prepared by a professional consultant acceptable to the Township, showing and certifying that the FPR storage and design of the FPR Storage Tank comply with all applicable local, state and federal rules, regulations and statutes, including this Chapter and PA Code Title 25, Chapter 299, as applicable; and certifying that the size (volume) of the proposed FPR Storage Tank is a suitable size (and not oversized) for land application on the acreage of the tract of land on which the FPR Storage Tank is located. FPR stored in an FPR Storage Tank must only be applied to the parcel or contiguous tract of land upon which the FPR Storage Tank is affixed, as further defined and described in Section 70-7 of this Chapter.

FPR STORAGE TANK

A storage tank or other structure affixed to the land and used for the storage of FPR.

MCLs FOR PFAs

The maximum contaminant levels for per- and polyfluoroalkyl substances for drinking water as established by PA DEP or US EPA, whichever is lower.

HAZARDOUS WASTE

Hazardous waste as defined by Chapter 287 of Title 25 of the Pennsylvania Code.

PA DEP

Pennsylvania Department of Environmental Protection.

PFA's

Per- and polyfluoroalkyl substances.

PROPERTY OWNER and OWNER

Shall include a person or entity who holds title in whole or in part to a lot or a person or entity who exercises or has the power or authority to exercise control in whole or in part over a lot, including lessees.

TOWNSHIP

Antrim Township.

US EPA

United States Environmental Protection Agency.

USGS

United States Geological Survey.

RESIDUAL WASTE

Residual waste, excluding FPR, as defined by Chapter 287 of Title 25 of the Pennsylvania Code.

TCLP TEST

Toxic Characteristics Leaching Procedure test.

WATER SUPPLY PLAN

A narrative plan to the Township providing for a temporary and permanent water supply in the event of contamination of a water supply by FPR as further defined and described in Section 70-8 of this Chapter.

70-2 REQUIRED MINIMUM DISTANCES.

A. Unless otherwise agreed, in writing, by permission of the owner of the feature listed, the minimum setback of land application of FPR from the listed features is as follows:

Property line: 50 feet

Occupied buildings: 300 feet

Individual (private) water well: 300 feet

Public water well: 300 feet

Upgradient from a surface water source (including a continuous spring water source): 1,000 feet

Intermittent stream: 100 feet

Perennial streams: 100 feet

Exceptional value wetlands as defined by PA DEP or the Environmental Protection Agency: 100 feet

Sinkhole (or any Karst landscape): 100 feet

Sinkhole drainage area (or any Karst landscape): 100 feet

Perimeter of pond or undrained depression: 25 feet

Bedrock outcrop: 25 feet

B. The above isolation distances shall be depicted on a USGS Map, or other map acceptable to the Township, with a scale not to exceed 1" = 200'.

70-3 SLOPES.

A. Subject to compliance with all other provisions of this Chapter, land application of FPR is permitted on land having slopes of less than 15%.

B. Land application of FPR on land having slopes of greater than 15% but less than 20% is permitted on such slopes with well-established crop cover or adequate crop residue cover as required pursuant to PA DEP guidelines and regulations applicable to land application of FPR. Land application of FPR on slopes of 20% or more is discouraged.

C. Application of FPR on slopes of 20% to less than 25% is only permitted by subsurface injection approved by PA DEP.

D. Application of FPR on slopes of 25% or greater is prohibited.

E. For purposes of this Chapter, slopes shall be determined by the most current United States Geological Survey (USGS) slope maps or actual topographical survey plan prepared and sealed by a surveyor professional licensed in the Commonwealth of Pennsylvania. In the event of a conflict between a USGS slope map and a sealed survey plan, the sealed survey plan will be used to determine slopes.

70-4 GROUND WATER, SEASONAL HIGH WATER TABLE, BEDROCK.

A. The regional groundwater depth under the site to which FPR will be applied must be greater than 4 feet.

(1) For purposes of this Chapter, in the absence of actual measurements performed and certified by a licensed hydrogeologist, regional groundwater depth will be based upon USGS and Pennsylvania Geologic Survey.

(2) In the event that regional groundwater depths applicable to a proposed FPR land application site are not available through USGS or Pennsylvania Geologic Survey, actual groundwater depths, measured and certified by a hydrogeologist must be provided to the Township.

B. The minimum seasonal high water table depth under a site to which FPR will be applied must be greater than 20 inches.

(1) The seasonal high water table is determined by the presence of mottling as determined by a licensed hydrogeologist or soil scientist.

(2) If the FPRs to be applied are certified as FPRs which have been stabilized by a Process that Significantly Reduces Pathogens and a Process that Further Reduces Pathogens recognized as

acceptable by PA DEP, the seasonal high water table minimum depth may be reduced to 12 inches.

C. The minimum bedrock depth under a site to which FPR will be applied must be greater than 20 inches.

(1) Bedrock depth must be determined by a licensed hydrogeologist or soil scientist.

(2) If the FPRs to be applied are certified as FPRs which have been stabilized by a Process that Significantly Reduces Pathogens and a Process that Further Reduces Pathogens recognized as acceptable by PA DEP, the bedrock minimum depth may be reduced to 12 inches.

70-5 EROSION AND SEDIMENT CONTROL, FIELD MARKINGS.

A. Prior to the land application of FPR, the property owner to which FPR is proposed to be applied must submit to the Township and Franklin County Conservation District a farm conservation plan for erosion and sediment control prepared in accordance with Pennsylvania Code Title 25, Chapter 102 (E & S Plan). The E & S Plan must be implemented and maintained by the property owner. Township approval of the E & S Plan must be obtained prior to the land application of FPR.

B. Prior to the land application of FPR, if the land to which FPR is to be applied is not clearly delineated (that is, for example, in a meadow condition without a ploughed field or identifiable crop), the property owner must mark the area to which FPR will be applied (for example, by way of corner stakes and where boundaries change direction).

70-6 QUALITY, SAMPLING, TESTING AND CERTIFICATION.

A. FPR for land application in the Township must meet the minimum quality standards for food processing wastes used for agricultural purposes required by PA DEP and Chapter 287 of Title 25 of the Pennsylvania Code as may be amended or restated from time to time.

B. FPR stored in the Township for land application must not contain any Hazardous Waste, Residual Waste, concentrations of PFA above the MCLs for PFAs, or other material that does not meet the definition of FPR in excess of the limits set forth in the FPR Manual. If testing, as required under Section 70-6(C), indicates the presence of Hazardous Waste, Residual Waste, concentrations of PFA above the MCLs for PFAs, or other material that does not meet the definition of FPR in excess of the limits set forth in the FPR Manual, the land owner shall immediately notify the Township, EPA and PA DEP and promptly prepare, and thereafter implement, a removal, remediation and clean-up plan in compliance with applicable US EPA and PA DEP requirements and regulations; and, in no event shall such materials be stored in an FPR Storage Tank in the Township for more than 10 days after identification thereof through testing required under Section 70-6(C).

C. The property owner of the land to which FPR will be applied must provide, at their option, to the Township either:

(1) prior to land application, the results of: a US EPA Method 1633 test for PFAs in environmental samples and a TCLP test, ASTM water leaching test, or such other test(s) acceptable to the Township on the FPR to be applied; and a written certification, made under penalty of perjury, that said results are true, the material tested is, in fact, FPR, the material tested does not contain concentrations of PFAs above the MCLs of PFAs, Hazardous Waste or Residual Waste, and that the said results are correct and representative of the FPR to be applied; or,

(2) at least 14 days prior to application, an uncontaminated sample of the FPR to be applied, which sample must be sufficient in form, substance and size for a US EPA Method 1633 test for PFAs in environmental samples and TCLP test, ASTM water leaching test, or such other test(s) acceptable to the Township; or,

(3) in the event FPR is stored on-site, in the alternative, the property owner may choose to provide the Township with access to stored FPR to conduct its own sampling, provided that such access is provided 14 days prior to application. Further, the property owner hereby authorizes the Township to use the sample to conduct testing of the FPR to determine, among other things, that the FPR does not contain substances that would, for example, classify the FPR as residual waste or hazardous waste under PA DEP regulations. In the event any test performed or test results obtained under this Section indicate that the FPR to be land applied contains PFAs concentrations which exceed the MCLs for PFAs or any substance that would reclassify the FPR as residual waste or hazardous waste under PA DEP regulations, said reclassified FPR shall not be land applied or stored in the Township.

D. The property owner of the land to which FPR is applied must provide the Township with annual access to the lands upon which FPR is applied in the event the Township desires to take samples of soil to verify compliance. The property owner hereby authorizes the Township to use the sample to conduct soil chemistry testing to ensure that the land application of FPR is not introducing, for example, higher than acceptable levels of heavy metals or synthetic organics onto the land. The lifetime heavy metal loading rates of FPR applied to the land may not exceed the limits set forth in the FPR Manual.

E. The property owner of the land to which FPR are applied must provide the Township with an annual report, in a form provided or approved by the Township, by the end of January for the prior fiscal year in which FPR is applied, which annual report shall include the minimum record keeping information set forth in the FPR Manual (See, FPR Manual, Chapter 8). The Township reserves the right, but is not obligated, to conduct soil testing to verify information contained in the annual report.

F. The property owner of the land to which FPR are applied must keep a log, acceptable in form to the Township, of daily activities including, at a minimum, the following: tax parcel identification number upon which the FPR has been applied; type, percentage of solids and weight or volume of FPR that is land applied; name and mailing address of each generator of FPR that is land applied; transportation records of FPR that is land applied (including a chain of custody from FPR generator to land application); a sketch of the area to which FPR are applied (for example, a USGS map overlaid with an outline of the area to which FPR are applied); the FPR land application rate; and pH records of the FPR applied. The aforementioned log must be made available by the property owner to which FPR are applied to the Township for inspection or copying, upon request by the Township, and within 1 business day of the Township's request. The log, or portions of it may be marked confidential by the property owner; and, if marked as such, the Township will treat any physical copy of the log as confidential, subject to disclosure requirement under the Pennsylvania Right-to-Know Law.

G. In the event the FPR to be land applied must be stabilized pursuant to PA DEP rules or regulations prior to application, the property owner of the land to which FPR will be applied must provide a certification acceptable to the Township that the FPRs have been stabilized by a Process that Significantly Reduces Pathogens and a Process that Further Reduces Pathogens recognized as acceptable by PA DEP, and a summary of the manner of stabilization.

70-7 STORAGE OF FOOD PROCESSING RESIDUAL.

A. Prior to storage of FPR in a FPR Storage Tank, or construction of a FPR Storage Tank, the property owner of the land on which a FPR Storage Tank is proposed to be located must provide the Township a FPR Storage Plan. FPR stored in a FPR Storage Tank must only be applied to the parcel or contiguous tract of land upon which the FPR Storage Tank is affixed.

B. The FPR Storage Plan must include a narrative describing proposed notification, response, and clean-up measures to be implemented in the event of a leak or spill of FPR from the FPR Storage Tank. The FPR Storage Plan must also include a narrative describing proposed maintenance and

inspection schedule for the FPR Storage Tank to ensure proper working order of the FPR Storage Tank and related improvements, and the structural integrity of the FPR Storage Tank.

C. Prior to use or construction of an FPR Storage Tank, a land use permit for the proposed FPR Storage Tank must be applied for and obtained from the Township, and the FPR Storage Plan must be submitted to the Township. The FPR Storage Plan may be updated or amended from time to time, with Township verification of compliance.

D. The property owner of the land to which FPR are applied must keep a log, acceptable in form to the Township, of delivery activities including, at a minimum, the following: tax parcel identification number to which the FPR has been delivered and stored; type, percentage of solids and weight or volume of FPR delivered; and name and mailing address of each generator of FPR that is delivered; transportation records of FPR that is delivered (including a chain of custody from FPR generator to land application). The aforementioned log must be made available by the property owner to which FPR are stored to the Township for inspection or copying, upon request by the Township, and within 1 business day of the Township's request. The log, or portions of it may be marked confidential by the property owner; and, if marked as such, the Township will treat any physical copy of the log as confidential, subject to disclosure requirement under the Pennsylvania Right-to-Know Law.

70-8 WATER SUPPLY PROTECTION.

A. The property owner of the land to which FPR is proposed to be applied must, or the owner of an FPR Storage Tank, as the case may be, prior to the storage or application of FPR, submit a Water Supply Plan to the Township. The Water Supply Plan must provide a temporary water supply within 48 hours of notice of contamination and a permanent water supply within 90 days of notice of contamination, and the estimated costs to provide a temporary water supply and permanent water supply, and the means by which the property owner intends to financially secure the costs of implementing the temporary water supply and permanent water supply, if required. Prior to storage or application of FPR, the property owner of the land on which FPR is to be stored must submit to the Township a Water Supply Plan and provide adequate financial security for the implementation thereof.

70-9 NUISANCE PREVENTION; CLEANUP.

A. Land application and storage of FPR must be conducted in a manner that limits odors, vermin, and ponding of liquids to those associated with a normal agricultural operation, and as described in the FPR Manual.

B. Land application and storage of FPR must not adversely impact soil composition, ground water, the food chain or environment more than a normal agricultural operation.

C. FPR may not be applied to land where root vegetables which may be eaten raw will be grown within 2 years of said FPR application.

D. In the event of a spill or application of material believed to be FPR that, in fact, contains Hazardous Waste, Residual Waste, or concentrations of PFA above the MCLs for PFAs, the land owner shall immediately notify the Township, EPA and PA DEP and promptly prepare, and thereafter implement, a soil remediation plan based upon US EPA's Soil Remediation Guidelines which is acceptable to the US EPA and PA DEP.

70-10 RECORDS, COMPLIANCE WITH LAWS AND REGULATIONS, NOTICE.

A. FPR may only be stored or applied to land as part of a normal agricultural operation. As used in this Chapter, the term normal agricultural operation means the activities, practices, equipment, and procedures that farmers use to produce and prepare agricultural products for market, including the production and harvesting of crops, livestock, and poultry, as well as their products, on a tract of land

at least 10 contiguous acres in size, or, if under 10 acres in size, having an anticipated yearly gross income of at least \$10,000.00. FPR storage or land application that is not associated with a normal agricultural operation is strictly prohibited.

B. Prior to the storage or land application of FPR, any change to an existing FPR storage or land application activity, or the design, construction and installation of pipes or other facilities to drain or in any other way discharge FPR on property in the Township that is stored or spread on property in an adjacent municipality, the property owner of land upon which FPR are stored or applied must complete and deliver to the Township a Food Processing Residual Land Application and Storage Compliance Review Form providing documentation and certification that the storage and land application of FPR or, as the case may be, the drainage or other discharge to property in the Township of FPR that is stored or applied to property in an adjacent municipality will comply with all federal, state and local laws, rules, regulations and ordinances. The provided documentation shall include at a minimum all documentation the property owner and/or land applier submitted to the PA DEP.

C. Upon receipt of a Food Processing Residual Land Application and Storage Compliance Review Form the Township will: review the documentation provided to ensure compliance with all federal, state and local laws, rules, regulations and ordinances; and mail a one-time notice to property owners within 500 feet of the boundary of the tract upon which storage or land application of FPR or, as the case may be, drainage or other discharge to property in the Township of FPR that is stored on or applied to property in an adjacent municipality is proposed alerting them of the submitted Food Processing Residual Land Application and Storage Compliance Review Form and recommending property owners review the testing guidelines posted on the PA DEP website and test their private wells prior to the commencement of FPR land application.

D. The property owner of land upon which FPR are stored or applied or, the property owner of land in this Township to which the owner intends to drain or in any other way discharge FPR to land that the owner owns in this Township, on behalf of themselves, their successors and assigns acknowledges and agrees that the Township will maintain records provided to it and a list of parcels of land upon which FPR is stored, applied or, drained or in any other way discharged, in a manner and for a length of time deemed administratively necessary in the Township's sole discretion; and, further acknowledges and agrees that those records may constitute public records subject to public disclosure under the Pennsylvania Right-to-Know Law unless otherwise exempt thereunder.

E. This Chapter is intended to supplement and not supersede the laws of the Commonwealth or rules and regulations promulgated by PA DEP or any other agency having jurisdiction over and application of FPR which are more stringent than provisions hereof.

F. If a law of the Commonwealth of Pennsylvania, law of the Federal Government, holding of the Pennsylvania Supreme Court or holding of the United States Supreme Court determines that land application of FPR and/or storage of FPR is not allowed as part of a normal agricultural operation the portions of this ordinance permitting land application of FPR and/or storage of FPR, as the case may be, of this ordinance shall be null and void and automatically repealed.

70-11 VIOLATIONS AND PENALTIES.

A. This Chapter shall be enforced by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Criminal Rules of Criminal Procedure. Any person who violates or permits the violation of this Chapter shall, upon conviction in a summary proceeding, be punishable by a fine of not more than \$1,000.00, plus all costs incurred by the Township in the preparation and enforcement of such violation including, but not limited to, court costs and attorney's fees incurred in the prosecution of such violation, or by imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues, or is permitted to continue, shall constitute a separate offence. Each section of this Chapter that is violated shall also constitute a separate offense. In addition to the penalty provisions herein, the Board of Supervisors

may authorize institution of proceedings in equity to compel compliance with this Chapter and/or seek to enjoin temporarily or permanently the land application of FPR and/or the drainage or other discharge of FPR to property in this Township.

B. The Township, by allowing land application of FPR and/or drainage or other discharge of FPR or taking any other action pursuant to this Chapter, does not waive, reduce, lessen, or impair the lawful police powers vested in the Township under applicable federal, state, and local laws and regulations.