

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2393 Session of 2024

INTRODUCED BY FRIEL, TAKAC, BURGOS, SCHEMEL, GLEIM, CEPEDA-FREYTIZ, PROBST, McANDREW, PIELLI, KHAN, CONKLIN, HADDOCK, SANCHEZ, STAMBAUGH, ZIMMERMAN, T. JONES, WEBSTER, BOROWSKI, MALAGARI, DALEY, SCOTT, KUTZ, GREEN AND IRVIN, JUNE 7, 2024

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 7, 2024

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An
 2 act providing for the planning and regulation of solid waste
 3 storage, collection, transportation, processing, treatment,
 4 and disposal; requiring municipalities to submit plans for
 5 municipal waste management systems in their jurisdictions;
 6 authorizing grants to municipalities; providing regulation of
 7 the management of municipal, residual and hazardous waste;
 8 requiring permits for operating hazardous waste and solid
 9 waste storage, processing, treatment, and disposal
 10 facilities; and licenses for transportation of hazardous
 11 waste; imposing duties on persons and municipalities;
 12 granting powers to municipalities; authorizing the
 13 Environmental Quality Board and the Department of
 14 Environmental Protection to adopt rules, regulations,
 15 standards and procedures; granting powers to and imposing
 16 duties upon county health departments; providing remedies;
 17 prescribing penalties; and establishing a fund," in general
 18 provisions, further providing for definitions and for powers
 19 and duties of department; in applications and permits,
 20 further providing for permits and licenses required,
 21 transition scheme and reporting requirements and providing
 22 for food processing residual waste; and imposing penalties.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 Section 1. Section 103 of the act of July 7, 1980 (P.L.380,
 26 No.97), known as the Solid Waste Management Act, is amended by

1 adding definitions to read:

2 Section 103. Definitions.

3 The following words and phrases when used in this act shall
4 have, unless the context clearly indicates otherwise, the
5 meanings given to them in this section:

6 * * *

7 "Animal processing waste." Residual materials in liquid or
8 solid form generated in the slaughtering of poultry and
9 livestock or in processing and converting fish, seafood, milk,
10 meat or eggs to food products.

11 * * *

12 "Food processing residual waste." Animal processing waste
13 and vegetative processing waste.

14 * * *

15 "Hauler or broker of food processing residual waste." A
16 person who for a fee or other remuneration provides transport or
17 application or coordination for transport or application of food
18 processing residual waste from or to land owned or controlled by
19 another person or municipality.

20 * * *

21 "Land application system." A written, site-specific plan
22 that incorporates best management practices for the use of food
23 processing residual waste to prevent pollution to the air, water
24 and other natural resources of this Commonwealth.

25 * * *

26 "Vegetative processing waste." Residual materials in liquid
27 or solid form generated in the processing, converting or
28 manufacturing of fruits, vegetables, crops or another commodity
29 into marketable food items.

30 Section 2. Section 104(17) and (18) of the act are amended

1 and the section is amended by adding a paragraph to read:

2 Section 104. Powers and duties of the department.

3 The department in consultation with the Department of Health
4 regarding matters of public health significance shall have the
5 power and its duty shall be to:

6 * * *

7 (17) administer funds collected by the United States
8 Government and granted to Pennsylvania for the purpose of
9 closing, maintaining or monitoring abandoned or closed
10 hazardous waste storage, treatment or disposal sites and for
11 the purpose of action to abate or prevent pollution at such
12 sites. If Congress has not authorized the collection of such
13 funds within one year after the effective date of this act,
14 or if the department finds that the funding program
15 authorized is inadequate, the department shall transmit to
16 the General Assembly within 15 months after the effective
17 date of this act a proposal for the establishment of a fund
18 in Pennsylvania comprised of surcharges collected from users
19 of hazardous waste storage, treatment and disposal facilities
20 excluding captive facilities in the Commonwealth. Such fund
21 shall be proposed for the purpose of closing, maintaining or
22 monitoring hazardous waste storage, treatment or disposal
23 sites excluding captive facilities which have been abandoned
24 or which have been closed for at least 20 years, and for the
25 purpose of taking action to abate or prevent pollution at
26 such closed or abandoned sites; [and]

27 (18) encourage the beneficial use or processing of
28 municipal waste or residual waste when the department
29 determines that such use does not harm or present a threat of
30 harm to the health, safety or welfare of the people or

1 environment of this Commonwealth. The department shall
2 establish waste regulations to effectuate the beneficial use
3 of municipal and residual waste, including regulations for
4 the issuance of general permits for any category of
5 beneficial use or processing of municipal waste or residual
6 waste on a regional or Statewide basis in accordance with the
7 regulations adopted by the Environmental Quality Board. The
8 department may or may not require insurance under section
9 502(e) or bonds under section 505(a) for any general permit
10 or class of general permits promulgated under this paragraph.
11 Except with the written approval of the department, no waste
12 may be stored for longer than one year. Residual wastes being
13 stored shall be monitored for changes in physical and
14 chemical properties, including leachability, pursuant to
15 applicable regulations, by the person or municipality
16 beneficially using or processing such waste. The department
17 may require the submission of periodic analyses or other
18 information to insure that the quality of residual waste to
19 be beneficially used or processed does not change. A
20 municipality or person beneficially using or processing the
21 residual waste shall immediately notify the department, upon
22 forms provided by department, of any change in the physical
23 or chemical properties of the residual waste, including
24 leachability; and the department shall conduct an
25 investigation and order necessary corrective action. Upon
26 receipt of a signed, written complaint of any person whose
27 health, safety or welfare may be adversely affected by a
28 physical or chemical change in the properties of residual
29 waste to be beneficially used or processed, including
30 leachability, the department shall determine the validity of

1 the complaint and take appropriate action[.]; and
2 (19) regulate the storage, transport and application of
3 food processing residual waste in coordination with the
4 Department of Agriculture and the State Conservation
5 Commission.

6 Section 3. Section 501(a) of the act is amended and the
7 section is amended by adding a subsection to read:
8 Section 501. Permits and licenses required; transition scheme;
9 reporting requirements.

10 (a) It shall be unlawful for any person or municipality to
11 use, or continue to use, their land or the land of any other
12 person or municipality as a solid waste processing, storage,
13 treatment or disposal area without first obtaining a permit from
14 the department as required by this act: Provided, however, That
15 this section shall not apply to the short-term storage of by-
16 products which are utilized in the processing or manufacturing
17 of other products, to the extent that such by-products are not
18 hazardous, and do not create a public nuisance or adversely
19 affect the air, water and other natural resources of the
20 Commonwealth[: And provided further, however, That the
21 provisions of this section shall not apply to agricultural waste
22 produced in the course of normal farming operations nor the use
23 of food processing wastes in the course of normal farming
24 operations provided that such wastes are not classified by the
25 board as hazardous].

26 * * *

27 (d) Except as specified under section 509, it shall be
28 unlawful for any person or municipality to use, or continue to
29 use, or to apply, or continue to apply, on their land or the
30 land of any other person or municipality food processing

1 residual waste without first obtaining a permit from the
2 department as required by this act.

3 Section 4. The act is amended by adding a section to read:
4 Section 509. Food processing residual waste.

5 (a) The storage and application of food processing residual
6 waste in the course of a normal farming operation shall be
7 managed under a land application system. Any person or
8 municipality engaging in the storage and application of food
9 processing residual waste in the course of a normal farming
10 operation shall file the land application system with the
11 department in a form and manner determined by the department.
12 The land application system shall include, at a minimum, all of
13 the following:

14 (1) The establishment of minimum standards of
15 construction, location, storage capacity and operation of
16 facilities intended to be used for storage of food processing
17 residual waste.

18 (2) The establishment of conditions under which
19 amendments to the land application system are required to be
20 made after the initial development or filing of the land
21 application system.

22 (3) An overview of nearby odor receptors and an analysis
23 of odor risk.

24 (4) A description of siting, site preparation, nitrogen
25 availability, field selection, monitoring, recordkeeping,
26 transportation and mechanisms for reviewing land application
27 system performance.

28 (b) The department shall develop and maintain a food
29 processing residual waste manual that incorporates the latest
30 research on proper application, storage and odor management of

1 food processing residual waste. The manual shall include, at a
2 minimum, all of the following:

3 (1) A tiered system for food processing residual waste
4 based on content and potential for odors.

5 (2) Best management practices for handling, storage and
6 application of food processing residual waste.

7 (3) Established practices, technologies, standards,
8 strategies and other requirements for odor management of
9 storage and application of food processing residual waste,
10 which shall include a requirement that animal processing
11 waste and vegetative processing waste that presents or may
12 present a risk of odor be treated by an odor management
13 procedure prior to storage or land application.

14 (4) Testing requirements for evaluation and
15 establishment of nutrient content and chemical makeup of
16 food processing residual waste prior to transportation,
17 storage or land application.

18 (5) An identification of best management practices to be
19 utilized for transport, storage and application of food
20 processing residual waste.

21 (c) A hauler or broker of food processing residual waste
22 shall maintain a valid commercial manure hauler broker
23 certification under the act of June 28, 2004 (P.L.454, No.49),
24 known as the Commercial Manure Hauler and Broker Certification
25 Act.

26 (d) The following shall apply:

27 (1) A hauler or broker of food processing residual waste
28 shall keep and maintain the following records:

29 (i) A record of the chemical makeup and nutrient
30 content, including pH and phosphorus level and materials

1 that may have been introduced in the processing of food
2 processing residual waste intended for application or
3 storage.

4 (ii) Documentation of the source of food processing
5 residual waste intended for storage or application
6 sufficient to allow the department to trace any
7 contamination to the originating facility.

8 (2) Prior to transfer of food processing residual waste,
9 a hauler or broker of food processing residual waste shall
10 transmit copies of all of the following documents to the
11 recipient of the food processing residual waste:

12 (i) The valid commercial manure hauler broker
13 certification under the Commercial Manure Hauler and
14 Broker Certification Act of the hauler or broker.

15 (ii) The record specified under paragraph (1)(i).

16 (3) Prior to transfer of food processing residual waste,
17 the recipient of the food processing residual waste shall
18 transmit to the hauler or broker of the food processing
19 residual waste a copy of the land application system required
20 under subsection (a).

21 (4) All records required under this subsection shall be
22 maintained for at least three years and made available upon
23 request to the department.

24 (e) The department shall coordinate with the State
25 Conservation Commission as necessary to implement this section.

26 (f) In addition to any other penalty or proceeding permitted
27 under this act or by law or equity, the department shall assess
28 a civil penalty of no more than \$5,000 for a first violation of
29 this section. The department shall assess a civil penalty of no
30 more than \$25,000 for a second or subsequent violation of this

1 section. Each day in violation of this section shall be
2 considered a separate offense for the purposes of assessing the
3 penalty under this subsection. This subsection shall not apply
4 to a permit holder under this act that stores or accepts food
5 processing residual waste.

6 Section 5. This act shall take effect in 60 days.