

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, IRVIN, ECKER AND LABS, JUNE 7, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 9, 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 residuals; 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 ~~"Certified hauler or broker of food processing residuals." A~~ <--
13 ~~person that has complied with all requirements of the Department~~
14 ~~of Agriculture and been certified as a hauler or broker of food~~
15 ~~processing residuals.~~

16 * * *

17 "Food processing residuals." Animal processing waste and
18 vegetative processing waste.

19 "Food processing residuals data sheet." A written document
20 ~~that meets the requirements established by the Department of~~ <--
21 ~~Agriculture, in consultation with the State Conservation~~
22 ~~Commission, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE,~~ <--
23 ~~and specifies the quantity, content, composition~~ <--
24 ~~CHARACTERIZATION, origin, age, prior possessors and processing~~ <--
25 ~~of food processing residuals, dates and parties to any prior~~
26 ~~transfers of possession, intended site for storage prior to land~~
27 ~~application, if applicable, and intended site of land~~
28 ~~application in the course of normal farming operation.~~

29 * * *

30 "Hauler or broker of food processing residuals." A person

1 who for a fee or other remuneration provides transport or
2 application or coordination for transport or application of food
3 processing residuals from or to land owned or controlled by
4 another person or municipality.

5 * * *

6 "Land application system." A written, site-specific plan
7 that incorporates best management practices for the use, storage
8 and application of food processing residuals.

9 * * *

10 "Vegetative processing waste." Residual materials in liquid
11 or solid form generated in the processing, converting or
12 manufacturing of fruits, vegetables or crops into marketable
13 food items.

14 Section 2. Section 104(17) and (18) of the act are amended
15 and the section is amended by adding paragraphs to read:

16 Section 104. Powers and duties of the department.

17 The department in consultation with the Department of Health
18 regarding matters of public health significance shall have the
19 power and its duty shall be to:

20 * * *

21 (17) administer funds collected by the United States
22 Government and granted to Pennsylvania for the purpose of
23 closing, maintaining or monitoring abandoned or closed
24 hazardous waste storage, treatment or disposal sites and for
25 the purpose of action to abate or prevent pollution at such
26 sites. If Congress has not authorized the collection of such
27 funds within one year after the effective date of this act,
28 or if the department finds that the funding program
29 authorized is inadequate, the department shall transmit to
30 the General Assembly within 15 months after the effective

1 date of this act a proposal for the establishment of a fund
2 in Pennsylvania comprised of surcharges collected from users
3 of hazardous waste storage, treatment and disposal facilities
4 excluding captive facilities in the Commonwealth. Such fund
5 shall be proposed for the purpose of closing, maintaining or
6 monitoring hazardous waste storage, treatment or disposal
7 sites excluding captive facilities which have been abandoned
8 or which have been closed for at least 20 years, and for the
9 purpose of taking action to abate or prevent pollution at
10 such closed or abandoned sites; [and]

11 (18) encourage the beneficial use or processing of
12 municipal waste or residual waste when the department
13 determines that such use does not harm or present a threat of
14 harm to the health, safety or welfare of the people or
15 environment of this Commonwealth. The department shall
16 establish waste regulations to effectuate the beneficial use
17 of municipal and residual waste, including regulations for
18 the issuance of general permits for any category of
19 beneficial use or processing of municipal waste or residual
20 waste on a regional or Statewide basis in accordance with the
21 regulations adopted by the Environmental Quality Board. The
22 department may or may not require insurance under section
23 502(e) or bonds under section 505(a) for any general permit
24 or class of general permits promulgated under this paragraph.
25 Except with the written approval of the department, no waste
26 may be stored for longer than one year. Residual wastes being
27 stored shall be monitored for changes in physical and
28 chemical properties, including leachability, pursuant to
29 applicable regulations, by the person or municipality
30 beneficially using or processing such waste. The department

1 may require the submission of periodic analyses or other
2 information to [insure] ENSURE that the quality of residual <--
3 waste to be beneficially used or processed does not change. A
4 municipality or person beneficially using or processing the
5 residual waste shall immediately notify the department, upon
6 forms provided by department, of any change in the physical
7 or chemical properties of the residual waste, including
8 leachability; and the department shall conduct an
9 investigation and order necessary corrective action. Upon
10 receipt of a signed, written complaint of any person whose
11 health, safety or welfare may be adversely affected by a
12 physical or chemical change in the properties of residual
13 waste to be beneficially used or processed, including
14 leachability, the department shall determine the validity of
15 the complaint and take appropriate action[.];

16 ~~(19) regulate the storage, transport and application of <--
17 food processing residuals in coordination with the Department
18 of Agriculture and the State Conservation Commission;~~

19 ~~(20) (19) in consultation COORDINATION with the <--
20 Department of Agriculture and the State Conservation
21 Commission, develop, update and maintain a manual
22 establishing the best practices for the processing, testing <--
23 CHARACTERIZATION, use, storage and application of food <--
24 processing residuals in accordance with the latest scientific
25 research and evidence-based practices, which shall include,
26 at a minimum, a tiered system for food processing residuals
27 based on content and potential for odors and best practices
28 for treatment by an odor management procedure prior to <--
29 storage or application TO MANAGE THE IMPACT OF ODORS; and <--~~

30 ~~(21) (20) assist the Department of Agriculture and the <--~~

1 State Conservation Commission in the development of standards
2 for the land application system, which shall include at
3 least:

4 (i) the minimum standards for construction,
5 location, storage capacity and operation procedures for
6 facilities intended to be used for storage of food
7 processing residuals;

8 (ii) the conditions under which amendments to the
9 land application system must be made after initial
10 filing;

11 (iii) a process to determine the location of nearby
12 odor receptors and ~~reporting of mitigation measures~~ <--
13 IMPLEMENTATION OF BEST ODOR MANAGEMENT PRACTICES for <--
14 odors based on the tier of food processing being stored
15 or applied; and

16 (iv) the proper forms for the land application
17 system and the notice of intent required to be filed with
18 the State Conservation Commission.

19 Section 3. Section 501(a) of the act is amended to read:

20 Section 501. Permits and licenses required; transition scheme;
21 reporting requirements.

22 (a) It shall be unlawful for any person or municipality to
23 use, or continue to use, their land or the land of any other
24 person or municipality as a solid waste processing, storage,
25 treatment or disposal area without first obtaining a permit from
26 the department as required by this act: Provided, however, That
27 this section shall not apply to the short-term storage of by-
28 products which are utilized in the processing or manufacturing
29 of other products, to the extent that such by-products are not
30 hazardous, and do not create a public nuisance or adversely

1 affect the air, water and other natural resources of the
2 Commonwealth: And provided further, however, That the provisions
3 of this section shall not apply to agricultural waste produced
4 in the course of normal farming operations [nor] PROVIDED THAT <--
5 THE WASTE IS NOT CLASSIFIED BY THE ENVIRONMENTAL QUALITY BOARD
6 AS HAZARDOUS. THIS SECTION SHALL NOT APPLY TO the use of food
7 processing [wastes] residuals in the course of normal farming
8 operations [provided that such wastes are not classified by the <--
9 board as hazardous] in accordance with section 509. <--

10 * * *

11 Section 4. The act is amended by adding a section to read:
12 Section 509. Food processing residuals.

13 (a) The storage and application of food processing residuals
14 in the course of a normal farming operation shall be managed
15 under a land application system, which shall be made in a form
16 and manner determined by the Department of Agriculture, in
17 consultation with the State Conservation Commission.

18 (b) The land application system shall include, at a minimum,
19 all of the following:

20 (1) A description of the construction, location, storage
21 capacity and operation of facilities intended to be used for
22 storage of food processing residuals.

23 (2) A description of setbacks that have been established
24 for the protection of natural resources.

25 (3) A description of nearby odor receptors and an
26 analysis of odor risk, ACCORDING TO THE ODOR SITE INDEX <--
27 SPECIFICATIONS.

28 (4) A description of siting, site preparation, nutrient
29 availability, crop rotation, field selection, monitoring,
30 recordkeeping, transportation and mechanisms for reviewing

1 land application system performance.

2 ~~(5) Evidence of compliance with local ordinances or~~ <--
3 ~~zoning restrictions, if applicable, including any permissions~~
4 ~~or waivers.~~

5 ~~(6)~~ (5) A statement that the person completing the land <--
6 application system understands that if the person is
7 operating under both a land application system and a manure
8 management system, the person must comply with the
9 requirements of both.

10 (c) The land application system shall be available for
11 review at the request of the department, the Department of
12 Agriculture or the State Conservation Commission.

13 (d) A person wishing to apply or store food processing
14 residuals under a land application system shall file a notice of
15 intent to do so with the State Conservation Commission.

16 (e) A person may not accept the transfer of food processing
17 residuals for storage, use or application from anyone except a
18 hauler or broker of food processing residuals who has been <--
19 supplied with a complete food processing residuals data sheet.

20 (f) A person that accepts food processing residuals under
21 this section shall maintain the food processing residuals data
22 sheet received for a period of three years.

23 (g) If a person is fully and properly implementing a land
24 application systems plan of which a notice of intent is filed
25 with the State Conservation Commission and maintained under this
26 chapter, the implementation shall be given appropriate
27 consideration as a mitigating factor in any civil action for
28 penalties or damages alleged to have been caused by the
29 management or utilization of nutrients or the abatement of odor <--
30 impacts pursuant to the implementation FOOD PROCESSING <--

1 RESIDUALS.

2 ~~(h) The following apply regarding enforcement authority and <--~~
3 ~~enforcement orders:~~

4 ~~(1) A duly authorized agent of the State Conservation~~
5 ~~Commission or a conservation district shall have authority to~~
6 ~~enter an agricultural operation at reasonable times to~~
7 ~~conduct investigations and take actions as are necessary to~~
8 ~~enforce the provisions of this chapter or any order, rule or~~
9 ~~regulation issued under this chapter.~~

10 ~~(2) A person owning or operating an agricultural~~
11 ~~operation shall grant access to a duly authorized agent of~~
12 ~~the State Conservation Commission or a conservation district~~
13 ~~and may not hinder, obstruct, prevent or interfere with the~~
14 ~~agent in the performance of the duties of the agent, if the~~
15 ~~agent performs reasonable measures and actions as directed by~~
16 ~~the owner or operator of the agricultural operation as will~~
17 ~~reasonably and substantially prevent the spread or outbreak~~
18 ~~of contagious diseases.~~

19 ~~(i) (H) This chapter is of Statewide concern and occupies <--~~
20 ~~the whole field of regulation regarding storage and application~~
21 ~~of food processing residuals, to the exclusion of all local~~
22 ~~regulations, but nothing in this chapter shall prevent a~~
23 ~~political subdivision or home rule municipality from adopting~~
24 ~~and enforcing ordinances or regulations which are consistent~~
25 ~~with and no more stringent than the requirements of this chapter~~
26 ~~and the regulations or guidelines promulgated under this~~
27 ~~chapter. A penalty shall not be assessed under any local~~
28 ~~ordinance or regulation under this subsection for a violation~~
29 ~~for which a penalty has been assessed under this chapter.~~

30 ~~(j) (I) The department shall coordinate with the Department <--~~

1 of Agriculture and the State Conservation Commission as
2 necessary to implement this section.

3 Section 5. This act shall take effect in 180 days.