



REPORT

PENNSYLVANIA FOOD WASTE POLICY GAP ANALYSIS AND INVENTORY



ACKNOWLEDGMENTS

This report was prepared for NRDC by the Center for EcoTechnology, in collaboration with the Harvard Law School Food Law and Policy Clinic and BioCycle Connect, LLC.

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Design and Production: www.suerossi.com

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Glossary of Terms

Food rescue. This term refers to donation or recovery of surplus food for feeding hungry people.

Food waste reduction. This term encompasses all tiers of the food recovery hierarchy: prevention, donation, animal feed, composting, and anaerobic digestion.

Source-separated organics (SSO). This term references organic material separated for processing and may encompass food scraps as well as yard waste.

GAP ANALYSIS COLOR CODING

No Policy
Weak Policy
Moderate Policy
Strong Policy

Introduction

This report comprises a gap analysis and detailed inventory of food waste–related policies in Pennsylvania. Whereas the inventory provides an overview of existing state policies, the gap analysis identifies policy opportunities for furthering food waste reduction. Categories were chosen to represent areas across the food recovery hierarchy and include: organics disposal bans and recycling laws; date labeling; food donation liability protections; tax incentives for food rescue; organics processing infrastructure permitting; food safety policies for share tables; food systems plans, goals, and targets; plans targeting solid waste; climate action goals; and grants and incentive programs related to food waste reduction. The goal of this report is to equip NRDC Food Matters city partners with a comprehensive overview of their state’s respective policy landscape and how it helps and/or hinders efforts to reduce food waste.

The gap analysis can be read as a summary digest of the more detailed policy inventory. This section serves to highlight particularly strong policies that can be leveraged to further a city’s food waste reduction goals, as well as advocacy opportunities where policies are weak or nonexistent. The inventory provides a more comprehensive overview of any policies, executive orders, goals, targets, or programs that exist across the ten covered categories. Users may choose to read the gap analysis to gain a basic understanding of their state’s policy landscape and then reference the inventory for detailed information.

Policy Gap Analysis Approach and Applications

To provide a consistent and objective analysis, policy categories were assessed using a rubric that defines “No Policy,” “Weak Policy,” “Moderate Policy,” and “Strong Policy” for each category. Below is the rationale and definition for each tier of the rubric for the ten policy categories, as well as examples of policies in practice for select categories. For full rubric, see Food Waste Reduction Policy Gap Analysis Rubric.

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

Organics disposal bans and mandatory recycling laws are an effective means of achieving food waste reduction, including via prevention and other strategies across the hierarchy. By limiting the amount of organic waste that entities can dispose of in landfills or incinerators, organics disposal bans and waste recycling laws compel food waste generators to explore more sustainable practices like waste prevention, donation, composting, and anaerobic digestion (AD). A Strong Policy applies to all commercial generators (and possibly individuals at the household level) and is actively enforced. A Moderate Policy is similarly enforced but imposed only on select commercial generators, and Weak Policies are ones that provide several exemptions from the law’s applicability, such as exemptions based on distance from a processing facility or the cost of processing. It is quite common for states to start with a Weak Policy and gradually strengthen it as the marketplace evolves and impacted stakeholders are educated and gain the resources to comply.

Policy in Action

Disposal bans and mandatory recycling laws have received a lot of attention in recent years as an increasing number of states and localities have adopted this policy approach. In many cases, other actions were taken in the years leading up to the legislation or regulation that enabled it to get political and practical traction. For example, in Massachusetts, one of the first states to ban food waste, the state made incremental changes during the years before the ban’s effective date, including:

- Modernizing the permitting structure for composting and AD facilities;
- Investing in infrastructure through grants and low-interest loan programs;
- Providing regulatory relief from other waste bans if supermarkets diverted food waste through an innovative partnership with the Massachusetts Food Association called the Supermarket Recycling Program Certification; and
- Developing RecyclingWorks in Massachusetts, a no-cost technical assistance program to help businesses comply.

New York State has taken similar steps by providing grants for infrastructure, supporting food donation networks, and establishing business assistance in advance of its legislation. New York is also an example of a state where a major city (New York City) enacted a waste ban ahead of the statewide law.

Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws, a resource produced by the Harvard Food Law and Policy Clinic and the Center for EcoTechnology, provides further detail on these policies, including their development and structure, for cities and states that are considering this policy option.¹

Policies in the Mid-Atlantic Region

Three locales in the Mid-Atlantic region have policies that address food waste through this strategy. New Jersey was the first state to implement an organics waste ban in the region, laying the groundwork for others to follow. Washington, D.C., passed a Zero Waste Omnibus Amendment Act that requires some entities to source-separate back-of-house commercial food waste. As part of the preparation for passing the policy, the District's Department of Public Works (DPW) first hired a consulting firm to assess the feasibility of composting. The firm concluded that rolling out a compost collection program over a five-year period would be sufficient time to develop infrastructure. In Maryland, the most recent state in this region to adopt organics recycling legislation in this category, the legislature passed a policy in April 2021 that became law in May 2021.

DATE LABELING

Date labels affixed to food products are a major driver of food waste and an obstacle to food donation. There is currently no federal system regulating the use of date labels such as “sell by,” “best by,” and “use by” on foods. Instead, each state individually decides whether and how to regulate date labels. Manufacturers often have broad discretion over how the dates on foods are selected. These dates typically reflect quality and taste rather than safety, yet businesses, individuals, and even state regulators frequently misunderstand the dates and interpret them to be indicators of when food is no longer safe to eat.

Standardization of date labeling is a cost-effective solution to food waste. By educating consumers about the meaning of date labels on products sold within the state and eliminating bans on the donation or sale of past-date foods, states can make date labels comprehensible to consumers and avoid the systematized waste of safe and wholesome foods. A Strong Policy requires that manufacturers or retailers who choose to affix date labels to foods use one of two prescribed date labels, a quality label or a safety label. In addition, a Strong Policy expressly permits the donation of food after the quality date. A Moderate Policy requires date labels for certain foods but does not prohibit or limit the sale or donation of food after its label date. A Weak Policy—and potentially a detrimental one—requires date labels for certain foods and prohibits or limits the sale or donation of food after its label date. Federal guidance recommends the use of the phrase “BEST If Used By” to indicate a food's quality. Federal legislative proposals as well as industry efforts have recommended the same, and further recommend the phrase “USE By” to indicate safety concerns. States should align their standards with these efforts.

Policy in Action

Many states have conflicting or unnecessarily restrictive date labeling requirements. With a lack of clear guidelines, food manufacturers and processors have largely created their own labeling schemes. In some cases, decisions on how these dates are determined can be driven by business interests, and the labels often have a wide range of wording that increases confusion. Further, even where state date labeling regulations exist, they often are not based on science-backed food safety concerns. As a result, consumers or businesses often dispose of food when it reaches the label date, even though it may be safe to eat. Thus, date labels are an important part of any policy strategy to prevent food waste, and one that cities can encourage states to pursue. Until federal legislation or regulations standardizing date labels are adopted, states can remove problematic components of their own date labeling policies using guidelines recommended in this analysis, and even help pave the way for federal standardization.

FOOD DONATION LIABILITY PROTECTIONS

Restaurants, retailers, and other food businesses are often hesitant to donate food because they fear being held liable for harm caused by the donated food. While the federal Bill Emerson Good Samaritan Food Donation Act provides robust liability protection for both food donors and food rescue organizations, state liability protections can strengthen this and encourage food donation by further reducing liability risks for those participating in food rescue. A Strong Policy provides liability protection for donations directly to individuals, allowing restaurants and food service organizations to donate

small amounts of food that may be cost-prohibitive to transport or store; it also offers protection for donations supplied to the final consumer for a small fee, thereby extending protection to innovative food rescue models like social supermarkets. A Moderate Policy is broader than federal-level protections and may provide protections for donations directly to individuals or donations made for a small fee. A Weak Policy provides protections that are no broader than federal-level ones, or only protects one party, such as the donor or food rescue organization.

Tools to Support Policy

Legal fact sheets or guidance documents can serve as a beneficial tool in communicating legal protections and considerations for potential donors. These documents can relay legal language using easily understood terms that help clarify requirements for protection to apply and alleviate concerns related to donation. The Harvard Law School Food Law and Policy Clinic has created many state-specific food donation fact sheets (including on the topic of liability protection for food donation) and a number of other useful documents; these can be found in the organization's online resource library.

TAX INCENTIVES FOR FOOD RESCUE

Donating food can be expensive, because it requires money to harvest, package, store, and transport food that would otherwise be discarded. Tax credits or deductions can help offset those expenses and offer an economic incentive for food donations. A federal tax incentive exists, but certain businesses struggle to utilize it. State-level tax incentives for food donation can help support the agricultural economy and food producers, strengthen ties between local businesses and consumers, reduce the amount of wasted food, and improve the healthy options available to state residents who use emergency food outlets. A Strong Policy is one in which tax deductions or credits fully offset the costs associated with food donation, including transportation. A Moderate Policy provides a tax incentive for food donation, but the incentive does not fully offset the associated costs.

Policy in Action

States and cities may issue tax incentives that help promote food rescue. None of the 12 states or jurisdictions reviewed in the Mid-Atlantic, Southeast, or Great Lakes regions have a Strong Policy designation in this category. However, Philadelphia provides an example of a policy enacted at the local level that helps to incentivize food donation. The city implemented a sustainable business tax incentive that allows businesses who meet certain sustainability criteria—including participating in food donation—to receive a tax credit of up to \$4,000 on the Business Income & Receipts Tax (BIRT). As another example, Maryland, a state with a Moderate Policy in this category, offers a tax credit only for food donation by qualifying farms and farm businesses. These businesses can claim up to 50 percent of the value of the donation for conventional products, and up to 75 percent of the value of certified organic produce donations to charitable organizations.

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

Strong processing infrastructure policies actively facilitate the development and permitting of organic waste processing facilities—including both composting and anaerobic digestion facilities and small-scale composting operations—and are in sync with current best practices for organics processing. A Strong Policy includes a regulatory tier for source-separated organics (SSO) and provides opportunities for market development. Further, a Strong Policy minimizes barriers to entry, is aligned with best management practices for composting SSO, and offers a separate permitting process for anaerobic digestion of SSO. A Moderate Policy similarly offers a dedicated regulatory tier for SSO and considerations for market development, but it may have the same composting requirements for SSO as for mixed solid waste, may negatively impact economic viability by limiting the quantity or site acreage, or may include vague language for handling SSO through anaerobic digestion. A Weak Policy still includes a regulatory tier for SSO, but two of the drawbacks noted above (e.g., limitations on site acreage) are present. No Policy refers to locales with no processing tier for SSO, no acknowledgment of anaerobic digestion of SSO, and no exemption tier for small quantities of SSO.

States with strong policies for diversion to animal feed do not regulate feeding food scraps to animals or have minimal restrictions on such activity; they may also offer education and guidance on relevant laws and regulations and/or encourage collaboration with local farms.

An Evolution of Infrastructure Permitting

Permitting for organics processing infrastructure has evolved over the decades in response to the unique characteristics of different feedstocks, including biosolids, leaf and yard waste, and now, increasingly, food waste. In the 1980s, the U.S. Environmental Protection Agency (EPA) promulgated regulations codified at 40 CFR 503 that established pathogen and vector attraction reduction requirements and pollutant limits for biosolids recycling, including composting. Those requirements are included in most state solid waste regulations for composting, such as PFRP, the process to further reduce pathogens (e.g., maintaining temperature of 55 °C for three days in aerated static piles or 15 consecutive days in windrows). Later in the 1980s and into the 1990s, about two dozen states passed bans on landfill disposal of leaves, grass, and/or brush. This was in response to a perceived shortfall in landfill capacity and led to the creation of composting facilities specifically for yard trimmings in many states. To facilitate the development of yard trimmings processing capacity, states created a “permit by rule” approach (essentially a notification) to facility permitting or established an exemption. Permit-by-rule was an early example of a tiered permitting approach to composting regulations.

Interest in composting of source-separated food scraps grew throughout the 1990s. On-site composting of food scraps, for example, was enabled by in-vessel systems on the market. State solid waste agencies, recognizing that on-site food scrap composting poses minimal threats to public health and the environment, began adopting on-site composting exemptions. Some states also created exemptions for composting food scraps on farms during this time. In some instances, farms were not allowed to sell the compost but instead were required to use it all for their own agricultural operations.

Permit-by-rule, on-site exemptions, and on-farm composting exemptions are the foundation of a tiered approach to regulating composting facilities that process source-separated organic waste streams, including food scraps. Site and operational requirements for processing SSO tend to be less restrictive at smaller volumes and then become more restrictive, e.g., more stringent storm water management and pad requirements, as the quantities of feedstock increase. Tiered approaches reduce barriers to entry for SSO composting, which is why this regulatory approach was prioritized in this report’s policy rubric. As reflected in the rubric structure, it is generally acknowledged that a tiered approach to permitting facilitates development of food scrap processing facilities. This is especially the case for existing yard trimmings composting operations that can move from a permit-by-rule status to a registration or permitted status (depending on quantity of food scraps received) without significant financial hardship (in terms of permitting fees, site improvement costs, etc.). What typically changes are the operating procedures, such as requiring that food scraps be incorporated into the composting process soon after their arrival. PFRP temperature requirements must also be met, especially when meat, dairy, and shellfish are included in the food scraps stream.

To date, regulation of anaerobic digestion facilities receiving food scraps (codigestion) varies by state. In Pennsylvania, for example, the state solid waste agency has a permit for codigestion on dairy farms; however, oversight of codigestion at wastewater treatment plants is done by the water/wastewater division (and by the EPA in some cases, in terms of discharge permits). In Ohio, the state solid waste agency defers permitting of digesters taking food scraps to the air and water quality divisions. The organics processing permitting infrastructure inventories illustrate these variations among states.

Policies in the Mid-Atlantic Region

With its Class C recycling permit, New Jersey takes a one-size-fits-all approach to organics recycling activities in the state—from microscale composting at a community garden to large-scale anaerobic digestion of food scraps at a stand-alone facility (i.e., not at a treatment plant or farm). Under a Class C recycling permit, food scraps can be composted only in a fully enclosed facility, which typically requires a substantial capital investment, especially when compared to composting in open-air windrows. Due in large part to these requirements, there are no commercial-scale Class C permitted food scrap composting facilities in New Jersey. The only commercial-scale facility, Ag Choice, operates under a research, development, and demonstration (RD&D) permit, which it first received in 2005. Ag Choice processes about 38,000 cubic yards per year of source-separated organics, including pre- and postconsumer food waste. The company’s RD&D status is related to its work to show that composting food scraps in open-air windrows on a compacted gravel pad can be done without negative environmental or public health impacts. Ag Choice remains at a standstill with the New Jersey Department of Environmental Protection on being granted a Class C recycling permit utilizing its current composting facility design.

FOOD SAFETY POLICIES FOR SHARE TABLES

Share tables in schools can promote food rescue efforts and also teach children about food waste and rescue. While the U.S. Department of Agriculture (USDA) provides guidance on establishing share tables in schools, a Strong Policy at the state level goes above and beyond this guidance by encouraging share tables and developing state-specific guidelines or instructions about food safety as it relates to donation. A Moderate Policy allows share tables but provides only limited guidance. A Weak Policy also allows share tables but provides no guidance or offers more restrictive rules and guidance than the federal government does.

From a broader food policy perspective, food donors and food rescue organizations must also comply with food safety regulations. These regulations often do not directly address food donation specifically and can be difficult to navigate for food donors and health inspectors alike. To facilitate increased food rescue, state and local actors can create better and more consistent food safety regulations, produce guidance on food safety regulations for food donation, and prepare health inspectors to serve as food donation advocates. While many of the states analyzed for this project have produced guidance on implementing share tables in schools, very few have promulgated clear, science-based food safety regulations for food donations or offered food safety guidance for food donation more broadly. Given this gap, an opportunity remains for policymakers and advocates at the state and local levels to push for the following changes: regulations that explicitly state what foods can be donated, statewide uniformity among regulations that apply to donated foods, clarifying guidance on food safety for food donation to support potential food donors, and trainings for local health inspectors on safe food donation.

Policy in Action

New Jersey is an example of a state that has created mandatory guidelines for food rescue from surplus generated in schools, as noted in the tables below. Connecticut offers a cautionary tale of the importance of clear communication and coordinated efforts among stakeholders. In 2017, the Connecticut State Department of Education released a memorandum noting that the state's share table regulations limit their use to foods that are packaged or unpeeled and that do not require temperature control. This caused confusion among schools who thought the regulations could also apply to external donation—and thus felt compelled to dispose of foods like untouched apples and unopened cartons of milk. State agencies subsequently endorsed a guidance document that clarifies the distinction between share tables and donation to food rescue organizations, and the different regulations for each, and it has been made widely available to schools.

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

Statewide food systems plans, where goals and targets are given the support of state infrastructure, will have a much broader impact than regional or local food systems plans. However, any food systems plan that actively considers food waste reduction and sets clear targets to reduce food loss and waste demonstrates a clear commitment to improving food systems. A Strong Policy designation indicates that there is a comprehensive statewide plan with a set of clear goals and targets that also incorporates food loss and waste reduction. A Moderate Policy features regional food systems plans or a state plan in which one of the following is true: There is limited support to achieve goals, there is a failure to coordinate with other regional plans, or there is little to no consideration of food waste reduction. Weak Policies are designated where there is a regional food systems plan that does not have broader state support and does not address food waste reduction.

Policy in Action

Policies across the country, such as in Massachusetts, Rhode Island, and San Diego, have included very direct language about how reducing food waste is central to the success of the statewide food systems plan. Rhode Island's food strategy, *Relish Rhody*, supports a robust food system that also protects natural resources, promotes clean energy goals, and connects these goals to reducing food waste. To illustrate, one of the five integrated focus areas in Rhode Island's policy is "to minimize food waste & divert it from the waste stream."

PLANS TARGETING SOLID WASTE

Solid waste management plans set targets and a framework for achieving overall materials management and waste diversion goals. Plans that include food waste diversion demonstrate that a state actively considers the impact of food waste on materials management infrastructure, and the best ones are continuously updating their guidance to stay current. A Strong Policy features a current solid waste management plan, zero waste plan, or organics management plan that addresses food waste reduction and offers a strategy for reducing waste. A Moderate Policy highlights food waste as a diversion opportunity but has limitations or is out of date. States with a Weak Policy have plans that are more than a decade out of date and do not acknowledge the role of food waste reduction in diversion strategies.

Measuring Goals

States use a number of strategies to set goals and measure progress on food waste diversion, including analysis of recycling rates, waste reduction rates, or waste generation rates. Recycling rates compare the quantifiable amount of material generated in a territory with the amount of municipal solid waste disposed, but it can be challenging to accurately capture this data, and this approach does not account for waste reduction efforts. A waste reduction rate encompasses the information included in the recycling rate but adds consideration of waste reduction efforts. However, since it can be difficult to measure what is not created (as when food is not wasted), the calculation process can be complicated and the data provided can be less reliable than a recycling rate. A third strategy is to track the waste generation rate over time, either overall or per capita. In areas where waste handling facilities have finite capacity, this data point also helps state officials monitor infrastructure needs as they evolve.

Massachusetts is an example of a state that has evolved its goal-setting and data collection strategies over time, using each data point in different iterations of its solid waste master plan. Massachusetts arrived at using an overall waste generation rate to reduce staff labor required in monitoring goals and allow a focus on various materials reduction rates. As another example, in its Beyond Waste plan, New York took a per-capita waste generation rate approach, accounting for variations in population across the state.

CLIMATE ACTION GOALS

A climate action plan sets clear targets for addressing climate change and establishes clear pathways to meet those targets. With respect to policy vehicles, legislation ranks higher in this policy rubric because it demonstrates a statewide commitment to climate action, whereas executive orders can be revoked by later administrations. Even in the absence of explicit goals for food waste reduction, carbon reduction targets can be leveraged to justify and drive food waste reduction activities at the city and state levels. Where state-level political support for climate action is lacking, cities can adopt their own plans and policies. These can incorporate the contribution that food waste reduction makes toward decreasing emissions while providing economic benefits.

Since food waste is a significant contributor to greenhouse gas emissions, a Strong Policy will incorporate a plan to reduce food waste and will identify action steps for specific departments to carry out the work outlined in the plan. A Moderate Policy features a plan that outlines climate action goals, along with supporting legislation or specific departments that have been tasked with action steps. A Weak Policy for a climate action goal is set by executive order with no legislative framework or enacted with limited legislative action and no framework to achieve goals.

GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

State or local grant and incentive programs can be important catalysts for expanding food waste reduction activities across the hierarchy, from helping offset the costs of donation, to seeding startup food rescue organizations and supporting targeted infrastructure expansion, to providing technical assistance to marketplace stakeholders. A Strong Policy has a sustainable funding model to create grants and incentive programs that are explicitly aimed at food waste reduction. These programs also offer free technical assistance to support food waste reduction in an effort to lower the barriers to diversion. A Moderate Policy includes grants and funding for food waste reduction, but the funding may not be dedicated to this category or may be unsustainable, or technical assistance may not be offered. In states with a Weak Policy, grants to support food waste reduction are available, but more than one of the following is true: funding is not dedicated to this category, funding opportunities are not advertised or accessible, funding is unsustainable, or technical assistance is not provided.

Policy in Action

In addition to providing financial support, states and local entities are increasingly seeing the value and impact of educational programs and technical assistance for food waste generators. Several states provide technical assistance—tailored one-on-one support to an entity to implement food waste reduction strategies—which can lay the groundwork for a future waste ban or recycling mandate. In the absence of such legislation, a robust technical assistance program can still achieve meaningful results at all levels of the hierarchy. Complementary education and promotional campaigns allow broad outreach to constituents and can be an effective tool for raising awareness and spurring individual action. Every state and city has the opportunity to promote, and support constituents in, reducing waste.

Austin, Texas, has implemented an ordinance that requires certain businesses to rescue surplus food and source-separate food scraps for processing separate from municipal solid waste. Each covered business must submit an annual diversion plan that gives an overview of the types of material that will be recovered and the handling strategy for each of these waste streams. To support enforcement efforts, city staff may inspect hauling and recycling contracts. The city also offers a Reduction or Reuse Credit, whereby businesses can offset performance standards for organics recycling through source reduction efforts. A Zero Waste Business Rebate of up to \$1,800 is also available to support businesses that are beginning or expanding zero waste initiatives, such as composting or recycling programs. Further, Austin Resource Recovery offers direct technical assistance to entities initiating organics diversion programs.

Establishing a framework for the state's highway department or other state agencies to use compost in construction projects is another incentive program that can be pursued to support compost markets. For example, Maryland's State Highway Administration has developed a specification for compost and compost-based products and identifies compost use as a best management practice to address soil erosion, sediment control, and stormwater management. Not only does this provide a broader incentive for use of compost in state projects, but it also helps create an end market for finished compost, acknowledging the importance of compost sales on the sustainability of processing facilities.

Pennsylvania Food Waste Policy Gap Analysis

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Disposal Bans and Recycling Laws	<p>No Policy</p> <p>Pennsylvania has not enacted an organics disposal ban, and there is no incentive structure to encourage food waste diversion.</p>	<ul style="list-style-type: none"> ■ Enact an organic waste ban or mandatory organics recycling law for all commercial generators. ■ Introduce a solid waste disposal tip fee that would help incentivize waste diversion while generating a revenue stream to fund food waste prevention and diversion programs. ■ Cities or counties may be able to enact their own organic waste bans for food waste or establish incentive programs for food donation or waste diversion because they have the power to develop their own solid waste disposal plans. Incentive programs can come in the form of recognition, certification, or regulatory relief. <p>Note: Progress on the recommendations below, particularly in the areas of Liability Protection, Tax Incentives, Organics Processing Permitting, Food Systems Plan, and Solid Waste Management Plans, can help make food waste diversion more common, which can lower barriers to implementing policies like a disposal ban.</p>
Date Labeling	<p>Moderate Policy</p> <p>Pennsylvania has date labeling requirements for milk and shellfish.² There is no differentiation between quality-based and safety-based dates, but the state does not prohibit or limit the sale or donation of food past its label date. The state has some goals related to reducing food waste, and date labeling laws could be better leveraged to help achieve these goals.</p>	<ul style="list-style-type: none"> ■ Establish guidelines expressly allowing the donation or the freezing of food after the quality-based date, and educate businesses about donation. ■ Launch education campaigns and guidance documents that promote consumer awareness and education on the meaning of date labels. ■ Align any updates to date labeling policy with federal guidance.
Food Donation Liability Protections	<p>Weak Policy</p> <p>Pennsylvania has liability protection for donors and distributors of food offered for free, and there is a presumption of good faith.³ However, liability protections do not cover donations directly to needy individuals or donations that are supplied for a small fee. A recently introduced bill, H.B. 187 (2021), would add explicit permission to distribute past a quality-based date label.⁴</p>	<ul style="list-style-type: none"> ■ Provide liability protection beyond that offered at the federal level by the Bill Emerson Good Samaritan Food Donation Act, including: <ul style="list-style-type: none"> □ Liability protection for donations sold at a low price by distributing nonprofits. □ Liability protection for certain “direct donations” made by food businesses directly to those in need. □ Explicit liability protection when food products are donated after a quality-based date.
Tax Incentives for Food Rescue	<p>Moderate Policy</p> <p>Pennsylvania offers a state tax credit for donating food and does not appear to limit who may qualify.⁵ However, the tax benefit is insufficient to offset the costs associated with donation.</p>	<ul style="list-style-type: none"> ■ Offer an additional tax incentive to cover the cost of transporting donated food.

Policy Category	Status	Policy Recommendations and Potential Advocacy Opportunities
Organics Processing Infrastructure Permitting	<p>Moderate Policy</p> <p>Pennsylvania has a regulatory tier that includes source-separated food waste and has created multiple permitting pathways for composting food waste, e.g., on farm and on mine sites.⁶ It does not have an exemption from permitting for small-scale and/or community composting operations. Though it limits its general permit for food waste composting facilities to 15 acres, this likely does not impact the economic viability of a composting facility.⁷ Permit requirements are subject to interpretation by district offices that approve permit applications. Pennsylvania does not have a separate permitting pathway in solid waste regulations for anaerobic digestion of source-separated food waste.</p>	<ul style="list-style-type: none"> ■ Ensure its permitting requirements are kept up to date with best practices for composting. ■ Build consistency into the permit approval process to minimize variation in interpretation of applicability and requirements by district offices. ■ Create an exemption for small-scale composting of food waste with a simplified registration process. ■ Ensure that permitting requirements encourage urban composting facilities, such as in Philadelphia. ■ Develop a separate permitting pathway for anaerobic digestion of source-separated food waste that includes, where applicable, requirements similar to those imposed on composting source-separated food waste. ■ Bolster the market for finished compost by enacting procurement requirements for commercial developers and/or government agencies (e.g., mandatory consideration of a bid for use of compost).
Food Safety Policies for Share Tables	<p>Weak Policy</p> <p>Pennsylvania allows share tables but provides no resources or guidance on food safety for them.</p>	<ul style="list-style-type: none"> ■ Develop comprehensive and state-specific food safety guidance for food rescue and share tables to encourage the adoption of the latter. ■ Promote opportunities for schools to increase rescue through share tables and other methods.
Food Systems Plans, Goals, and Targets	<p>Moderate Policy</p> <p>The Governor’s Food Security Partnership has developed a plan, outlined in <i>Setting the Table: A Blueprint for a Hunger-Free PA</i>, that addresses food systems but sets no requirements and develops no infrastructure to help comply with its recommendations.⁸</p>	<ul style="list-style-type: none"> ■ Develop a comprehensive, statewide food systems plan with clear goals and targets to build a local, sustainable food system and support local farmers. This plan should include considerations for food waste reduction. ■ Establish the framework and support to achieve those targets.
Plans Targeting Solid Waste	<p>No Policy</p> <p>Pennsylvania has no solid waste management plan at the state level.</p>	<ul style="list-style-type: none"> ■ Develop a statewide solid waste management plan and provide updated specific waste diversion goals and recommendations for reduction of food waste through prevention, donation, rescue, and/or processing via composting or anaerobic digestion. ■ As a near-term action, develop an organics management plan to address food waste while a comprehensive solid waste management plan is being developed.
Climate Action Goals	<p>Weak Policy</p> <p>Pennsylvania has a clear climate plan with emissions reduction goals, but none of the related initiatives directly address food waste.⁹</p>	<ul style="list-style-type: none"> ■ Establish specific departments tasked with formulating actionable next steps for advancing emissions reductions in the context of reducing food waste. ■ Incorporate specific recommendations for reducing food waste into climate action planning. ■ Develop local climate action goals and plans to draw the connection between emission reductions and reduced food waste and further local efforts.
Grants and Incentive Programs Related to Food Waste Reduction	<p>Moderate Policy</p> <p>Pennsylvania provides several grants and other funding for food loss and waste prevention and for promotion of food rescue programs, but it does not offer technical assistance to businesses to support food waste diversion.</p>	<ul style="list-style-type: none"> ■ Consider reissuing the Food Recovery Infrastructure Grant, which specifically earmarked funds for food loss and waste prevention and for food rescue. ■ Establish a free technical assistance program to help businesses divert organics from the waste stream. Local technical assistance programs can support these efforts.

Pennsylvania Food Waste Policy Inventory

ORGANICS DISPOSAL BANS AND RECYCLING LAWS

There are currently no organics disposal bans or organics recycling laws in Pennsylvania. However, the Pennsylvania Department of Environmental Protection offers recycling technical assistance valued at up to \$7,500 to local governments across the state, including technical assistance with composting, to help them improve their recycling programs.¹⁰

DATE LABELING

Pennsylvania currently requires date labeling for two food items: shellfish and pasteurized milk. Milk is not permitted for sale after the date marked on the container, but there are no restrictions on certain food items that are donated after the date label.

Citation	Summary & Key Elements	Source
7 Pa. Code § 59a.15 (2020)	<p>Title: Title 7: Agriculture, Chapter 59a: Milk Sanitation, Section 15: Labeling: Milk Dating</p> <p>Summary: Outlines date labeling requirements and handling procedures for milk.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Pasteurized milk for sale must be dated and labeled with “sell by” or “not to be sold after” followed by the date clearly marked on the container. ■ The date on the container must not be more than 17 days after midnight on the day the milk was pasteurized. ■ Several items are exempt from these requirements, including but not limited to cultured dairy products, milk sold or offered for retail sale where it was processed, and ultra-pasteurized dairy products. ■ Pasteurized milk cannot be sold after the “sell by” date labeled on the container. 	http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/007/chapter59a/s59a.15.html&d=reduce
7 Pa. Code § 46.246 (2003)	<p>Title: Title 7: Agriculture, Chapter 46: Food Code. Receiving Shucked Shellfish: Packaging and Identification</p> <p>Summary: Provides requirements for labeling shucked shellfish.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Raw, shucked shellfish must have a label with the name, address, and certification number of the shucker-packer or repacker. ■ A “sell by” or “best if used by” date must be on a package if it contains less than 1.87 L (one-half gallon). ■ The date shucked must be included on a package if it contains 1.87 L (one-half gallon) or more. ■ If there is no label or the label is inadequate, the package will be subject to detention. 	http://www.pacodeandbulletin.gov/secure/pabulletin/data/vol33/33-50/33_50_p2.pdf
7 Pa. Code § 49.4 (2020)	<p>Title: Title 7: Agriculture, Chapter 49: Shellfish, Section 4: Records and Labeling</p> <p>Summary: Transaction records of purchases and sales of shellfish must be maintained by a dealer.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Dealers must keep and retain records, and maintain product labeling, in compliance with the NSSP Model Ordinance and the Food Act. 	http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/007/chapter49/chap49toc.html&d=reduce

FOOD DONATION LIABILITY PROTECTIONS AND TAX INCENTIVES FOR FOOD RESCUE

As shown in the table below, there are two Pennsylvania laws related to food donation liability protections, one regarding what is covered and the other regarding restrictions on donating food.

The Charitable Food Program encourages food rescue by awarding tax credits of up to 55 percent. Eligible projects are afforded the food donation liability protections outlined under the Donated Food Limited Liability Act. An amendment to the Donated Food Limited Liability Act that would provide further donor immunity and allow donation of food past the label date was introduced in 2021.

Citation	Summary & Key Elements	Source
<p>10 PA. Stat. Ann. §§ 351-58 (1981)</p>	<p>Title: Pennsylvania’s Donated Food Limited Liability Act</p> <p>Summary: Provides limited civil and criminal immunity for those donating food to select organizations for distribution to those in need and also outlines duties and powers bestowed to counties.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Offers civil and criminal liability immunity for individuals or organizations that donate food to charitable or religious organizations. ■ Extends coverage to both donors and charitable organizations. ■ Excludes protection for negligence, recklessness, or intentional misconduct on the part of donors and charitable organizations. Consideration is given for wildlife, which may be donated to and processed, prepared, and distributed by charitable organizations that serve/distribute food without cost. ■ Does not allow the sale of donated food for profit, unless for a nominal fee; and if food that is donated is for sale, the heightened liability protection is null. ■ Allows a charitable organization to assess a small fee on another organization (e.g., to cover transportation or distribution costs) and still be covered by the heightened liability protections. ■ Gives counties immunity from all criminal and civil liability when creating a referral or informational system of prospective donors and needy individuals. There is an exclusion, however, for gross negligence, recklessness, or intentional misconduct. 	<p>Law: https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1981/0/0076..PDF</p> <p>Legal Fact Sheet: https://www.chlpi.org/wp-content/uploads/2013/12/FINAL-PA-Liability-Fact-Sheet.pdf</p>
<p>The Neighborhood Assistance Program – Charitable Food Program</p>	<p>Title: Pennsylvania Tax Credit Incentives</p> <p>Summary: This offers up to a 55 percent tax credit to businesses that donate money or food to qualifying charitable food organizations or projects.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Administered by the Pennsylvania Department of Community and Economic Development (DCED). ■ Charitable food recovery organizations and projects must be approved by the DCED. ■ Only foods with “nutritional value” as defined by the DCED qualify for tax credits. 	<p>https://dced.pa.gov/download/neighborhood-assistance-program-nap-guidelines/?wpdmdl=86209</p>

ORGANICS PROCESSING INFRASTRUCTURE PERMITTING

Organics processing activities in Pennsylvania are regulated by the Pennsylvania Department of Environmental Protection (PADEP). Facility permitting requirements for organics processing infrastructure vary by location, scale, and technology (i.e., composting or anaerobic digestion).¹¹ They are divided into “Municipal Waste General Permit” and “Residual Waste General Permit.” Because of very limited staff and budget in PADEP’s central office, final decisions on permit applications and permit modification requests are made by the agency’s district offices. Current permits for food waste composting do not include either a tier or an exemption for small-scale composting (e.g., community composting) sites that accept material from households and/or small businesses.¹²

Additionally, there is one law related to the diversion of food scraps for animal feed that covers all “domestic” animals.

Citation	Summary & Key Elements	Source
<p>25 Pa. Code § 271.103 (2014)</p>	<p>Title: Permit-by-Rule for Municipal Waste Processing Facilities Other Than for Regulated Medical or Chemotherapeutic Waste; Qualifying Facilities; General Requirements</p> <p>Summary: Exempts on-site municipal food waste composting operations (“captive composting”) from needing a permit.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Permit-by-rule for processing MSW that is generated solely by the operator on site or off site. Permit-by-rule for a person or municipality operating a yard waste composting facility of 5 acres or less, except for individual backyard composting facilities. 	<p>http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/025/chapter271/s271.103.html&searchunitkey-words=Chapter,271.103&origQuery=Chapter271.103&operator=OR&title=null</p>
<p>General Permit WMGM017 (2020)</p>	<p>Title: On-Farm Source Separated Composting</p> <p>Summary: General permit allows composting of source-separated organics, including food scraps, on farms, provided party obtains a “Determination of Application” from PADEP.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Applies to on-farm composting of manure, yard waste (grass clippings, leaves, garden residue, tree trimmings, chipped shrubbery, and other vegetative material), source-separated food scraps (from food markets, grocery stores, food banks, food distribution centers, school cafeterias, and institutions), source-separated newspaper, and source-separated corrugated paper (cardboard). ■ Is limited to facilities that do not exceed 5 acres, do not process more than 500 tons or 1,000 cubic yards per year of source-separated food scraps, and do not process more than 3,000 cubic yards per acre of total materials (must meet all three criteria). ■ Allows compost to be sold. Methods include composting, vermicomposting (using worms) and hermetiacomposting (using larvae of black soldier flies). ■ Beneficial uses of the finished compost, vermicompost, and hermetiacompost include marketing or distribution as a soil substitute, soil conditioner, soil amendment, fertilizer, or mulch. ■ Composting area shall be constructed in a well-drained area with a workable surface and slope of 2–4 percent to prevent ponding and control surface water. All stormwater should be diverted away from the composting area. The working surface should be firm, uniformly graded, and dry. 	<p>http://files.dep.state.pa.us/Waste/Bureau of Waste Management/WasteMgtPortalFiles/SolidWaste/Municipal_Waste/GP/WMGM017.pdf</p>

Citation	Summary & Key Elements	Source
<p>General Permit WMGR025 (2008)</p>	<p>Title: Residual and Municipal Waste Composting</p> <p>Summary: Authorizes composting and beneficial use of source-separated organic wastes. Does not cap quantity that facilities are allowed to accept, but does limit all composting facility operations to a maximum of 15 acres.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Source-separated organic wastes include agricultural waste other than mortalities, butcher waste other than whole carcasses, food processing waste, pre-consumer and postconsumer food residuals (residential, commercial, and institutional), yard waste, land clearing and grubbing material, untreated wood waste, gypsum wallboard, paper, cardboard, waxed cardboard, virgin paper mill sludge, and spent mushroom substrate. ■ Beneficial uses of the finished compost approved in this permit include marketing or distribution as a soil conditioner, soil amendment, fertilizer, or mulch, and for erosion control. ■ Approval to operate under this permit is limited to composting facilities that do not exceed 15 acres. The composting facility shall include waste material storage areas, composting and curing areas, and a finished compost storage area (other than areas storing bagged product for retail sale). This permit does not cap the amount of material that can be accepted annually. ■ Pre- and postconsumer food residual waste must be stored in closed, leakproof containers. This waste may not be held in closed containers for more than 72 hours prior to being incorporated into the composting process. ■ Composting pads shall be constructed a minimum of 4 feet above the seasonal high water table. The composting pad shall be constructed of concrete, asphalt, or remolded asphalt. Composting pads constructed of earthen materials are also permitted provided they are no more permeable than 1×10^{-6} cm/sec in the uppermost 6 inches as confirmed by on-site testing. The composting pad shall be sloped to prevent the ponding of liquids. ■ Leachate generated at the facility shall be stored in a tank, container, or impoundment prior to treatment or reuse on site, discharge to a wastewater treatment plant, or hauling off site for treatment and/or disposal. ■ A financial bond, which guarantees the removal and proper management of any feedstock, compost, and finished products, is required for facilities larger than 5 acres and for facilities less than 5 acres if the total volume managed at the facility exceeds 6,000 cubic yards/acre. ■ Pre-consumer and postconsumer food residuals, food processing waste, and manure are the only waste streams that may be accepted at the facility in liquid form. ■ Finished compost shall contain no more than 1 percent of synthetic (man-made) inert material, and no more than 0.5 percent of plastic material, as measured using a 4-millimeter sieve. Requires sampling of finished compost, with the frequency determined by the amount produced. 	<p>http://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/lib/landrecwaste/residual_waste/gp/wmgr025.pdf</p>

Citation	Summary & Key Elements	Source
<p>General Permit, WMGM045</p>	<p>Title: Standard Conditions</p> <p>Summary: Authorizes mixing or blending, screening, and composting on an active or abandoned mine site approved by PADEP, as part of a mine reclamation permit or project, to produce a composting material for beneficial uses.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Can accept source-separated food processing waste generated in the processing, converting, or manufacturing of fruits, vegetables, and crops into marketable food items; source-separated pre- and postconsumer food wastes; yard waste; source-separated standard and laminated paper, newspaper, and wax-coated cardboard; unpainted and untreated pallets, skids, sawdust, wooden boxes/containers, wood shavings, or slab lumber from saw mills; land-clearing and grubbing waste; and agricultural waste limited to manure, crop residues, uncontaminated feed and grains. ■ Limited to composting facilities that do not exceed 5 acres and where the maximum volume of wastes (i.e., raw material, waste partially processed, finished compost, and manufactured topsoil), at any one time, does not exceed 6,000 cubic yards per acre. ■ Composting pad of concrete, asphalt, or remolded asphalt shall be constructed as follows: a. In a well-drained area; b. Firm and uniformly graded with a slope of 2–4 percent to prevent ponding and control surface water; and c. At least 4 feet above the seasonal high water table. An alternative composting pad constructed of earthen materials may be utilized provided the earthen materials shall not be more permeable than 1×10^{-6} cm/sec in the uppermost 6 inches as confirmed by on-site testing. ■ Permittee shall not cause or allow a point or non-point source discharge of any of the following: industrial or residual wastes; wastewater; combined stormwater runoff and leachate, if generated; or runoff or leachate from the staging, processing, and storage areas where solid waste management activities are conducted. 	<p>http://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/WasteMgtPortalFiles/SolidWaste/Municipal_Waste/GP/WMGM045.pdf</p>
<p>General Permit WMGM042 (2012)</p>	<p>Title: Anaerobic Digester¹³</p> <p>Summary: Authorizes the anaerobic digestion (AD) of animal manure on a farm mixed with grease trap waste (collected from restaurants or grocery stores) and pre-consumer and postconsumer food waste from commercial or institutional establishments.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Allows beneficial use: methane gas produced by the AD as fuel, including in the production of electricity; waste solids removed from the digester as animal bedding material at the farm; and liquid waste and solids removed from the digester as a soil additive for agricultural purposes. ■ If fats, oils, and grease are added to the digester, the liquid waste and solids may not be beneficially used as a soil additive if the concentration of fats, oils, and grease exceeds 15,000 milligrams per liter. ■ Cannot cause or allow a point or non-point source discharge of any of the following: residual wastes; liquid waste; combined stormwater runoff and leachate, if generated; or runoff from the staging, processing, and storage areas where solid waste management activities are conducted; to the surface waters of the Commonwealth. ■ For each new food waste type that is proposed to be anaerobically digested under the authorization of this general permit, the permittee shall submit a written request to the appropriate department regional office to conduct a short-term trial project for a new waste type in a limited volume for a period of 1 year or less to determine the feasibility for the beneficial use of new waste type material under this general permit. 	<p>http://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/WasteMgtPortalFiles/SolidWaste/Municipal_Waste/GP/WMGM042.pdf</p>

Citation	Summary & Key Elements	Source
3 Pa. Cons. Stat. § 2303, § 2324, §§ 2371–2379 (1996)	<p>Title: Domestic Animal Law</p> <p>Summary: Outlines regulations for feeding animals food scraps in Pennsylvania.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Properly heat-treated animal-derived food scraps can be fed to all domestic animals. ■ Individuals and facilities must obtain a license to feed these food scraps to domestic animals. ■ The law does not apply to non-animal scraps or to individuals feeding household scraps to their own domestic animals. 	<p>Law: https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=03&div=0&chpt=23</p> <p>Legal Fact Sheet: https://www.chlpi.org/wp-content/uploads/2013/12/FINAL-PA-Animal-Feed-Fact-Sheet.pdf</p>

FOOD SAFETY POLICIES FOR SHARE TABLES

Pennsylvania does not have any food safety guidance or policies for food donation.

FOOD SYSTEMS PLANS, GOALS, AND TARGETS

Both Philadelphia and Pittsburgh have individual food systems plans that discuss the current challenges their cities' food systems are facing and offer recommendations on how to improve these systems. Also, in *Setting the Table*, the Governor's Food Security Partnership, consisting of the secretaries of several Pennsylvania agencies, created a plan that addresses food waste, food access, food alliances, the Supplemental Nutrition Assistance Program (SNAP), food programs in schools, and other food assistance programs. *Setting the Table's* provisions may serve as a blueprint for other municipalities' food system plans, but they do not mandate adherence to its recommendations.

Citation	Summary & Key Elements	Source
Greater Pittsburgh Food Action Plan	<p>Summary: This plan, developed by the Pittsburgh Food Policy Council, lists findings on the Allegheny County food system and announces recommendations for a food plan focused on justice, equity, and sustainability.</p> <p>Key Elements:</p> <p>Recommendations include:</p> <ul style="list-style-type: none"> ■ Improved coordination among resources and agencies, facilitated by a full-time food systems coordinator within Allegheny County government and a statewide Pennsylvania Food Policy Council; ■ Improving access to land and capital for farmers, including new farmers and farmers of color; ■ Conducting municipal waste audits; ■ Advocating for food waste reduction legislation; ■ Supporting household food waste reduction; ■ Supporting a robust regional food economy; ■ Expanding food pantry networks; ■ Expanding SNAP, public transportation, and other food access measures; and ■ Supporting food education programs. 	https://foodactionplan.org/
A Philadelphia Food Policy Road Map	<p>Summary: Developed by the Philadelphia Food Policy Advisory Council, this document maps the food system in the Philadelphia 100-mile foodshed, including its strengths and challenges, and makes recommendations for the food system.</p> <p>Key Elements:</p> <p>Recommendations include:</p> <ul style="list-style-type: none"> ■ Supporting existing policies and programs to end food insecurity and improve nutrition; ■ Supporting local farming and improving labor standards and wages; ■ Appointing a Philadelphia food policy director; and ■ Developing/improving urban agriculture. 	https://www.phila.gov/media/20170221163657/A-Philadelphia-Food-Policy-Road-Map-Digital.pdf

Citation	Summary & Key Elements	Source
Setting the Table: A Blueprint for a Hunger-Free PA	<p>Summary: Developed by the Governor’s Food Security Partnership, composed of secretaries of various Pennsylvania agencies, this plan aims “to provide all Pennsylvanians with access to healthy, nutritious food” and includes goals to be achieved by 2020.</p> <p>Key Elements:</p> <p>Recommendations include:</p> <ul style="list-style-type: none"> ■ Forming local food alliances; ■ Maintaining/increasing access to farmland; ■ Increasing SNAP outreach, school food programs, and other assistance programs; and ■ Increasing food waste reduction programming and instituting food waste reduction and composting programs through the Department of Aging. 	https://www.dhs.pa.gov/about/Ending-Hunger/Documents/Setting%20the%20Table.pdf

PLANS TARGETING SOLID WASTE

Although Pennsylvania has identified a department responsible for maintenance of the state’s Solid Waste Management Plan, research did not reveal a current plan for the state. As indicated in the table below, Pennsylvania passed an act in 1988 that includes a number of provisions for materials management. This act includes provisions for establishing a fund to support recycling and waste reduction programs.

Citation	Summary & Key Elements	Source
P.L. 556, No.101 Cl. 27	<p>Title: Municipal Waste Planning, Recycling and Waste Reduction Act</p> <p>Summary: Requires counties to develop and share plans for management of municipal waste systems in their districts. It further establishes waste reduction goals and mechanisms to support related efforts.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Establishes a fee for waste disposal to support a recycling fund that can be used for various recycling and waste reduction programs, including but not limited to education and outreach, staffing, grant programs, studies, and technical assistance. ■ Sets a goal for educating all residents and employees in Pennsylvania about the financial and environmental benefits of waste reduction and recycling. ■ Identifies goals to generate less municipal waste per capita between the date of enactment and January 1, 1997, after which 25 percent of municipal waste in Pennsylvania must be recycled. ■ Requires commonwealth agencies to evaluate the potential for use of finished compost in land maintenance projects that are supported by public funds. 	https://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=1988&sessInd=0&smthL-wInd=0&act=0101

CLIMATE ACTION GOALS

As outlined in the following table, Pennsylvania has several initiatives addressing climate change, a number of which focus largely on energy consumption and related emissions. A focus on energy, conservation, and the environment is also included in the Governor’s Goals.¹⁴ A number of the items listed below are referenced as the steps Governor Tom Wolf is taking to toward realizing these goals. While several of these documents do not directly address food waste, a reduction in wasted food can contribute to these greenhouse gas emissions goals.

Citation	Summary & Key Elements	Source
Executive Order 2019–07	<p>Title: Commonwealth Leadership in Addressing Climate Change Through Electric Sector Emissions Reductions</p> <p>Summary: Focuses on the electricity generation sector for reducing carbon dioxide and other greenhouse gas emissions, proposes to develop a budget that will limit state greenhouse gas emissions.</p>	https://www.governor.pa.gov/wp-content/uploads/2019/10/Executive-Order-2019-07-Commonwealth-Leadership-in-Addressing-Climate-Change-through-Electric-Sector-Emissions-Reductions.pdf
Pennsylvania Climate Action Plan 2018	<p>Summary: This plan, which is mandated by the Pennsylvania Climate Change Act, P.L. 935, No. 70, is the fourth iteration of this document. It includes the greenhouse gas emission reduction goals identified in Executive Order 2019-01 (see below).</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Also establishes goals to minimize disruptions due to climate change and mitigate future impacts. ■ Recommends, among 19 strategies, an effort to “reduce and use waste sent to landfills.” ■ Identifies leadership actions including: <ul style="list-style-type: none"> □ Implementing programs for residents and businesses to reduce food waste and to compost. □ Encouraging the use of digesters to capture and recover methane. ■ Recommends promoting alternative fuels, including recovery of gas from landfills and through anaerobic digestion of food waste. ■ Identifies an agricultural best practice of reducing personal food waste through better storage and planning. ■ Identifies personal action of participating in community composting as a strategy to reduce waste. 	http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=1454161&DocName=2018%20PA%20CLIMATE%20ACTION%20PLAN.PDF%20%20%20%3cspan%20style%3D%22color:blue%3b%22%3e%28NEW%29%3cspan%3e
Executive Order 2019-01	<p>Title: Commonwealth Leadership in Addressing Climate Change and Promoting Energy Conservation and Sustainable Governance</p> <p>Summary: Establishes a goal of reducing greenhouse gas emissions by 26 percent from 2005 levels by 2025, and by 80 percent by 2050. This order also provides a framework to support development of strategies to meet the emissions reductions goals.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Acknowledges the importance of resource conservation and energy efficiency in mitigating climate impacts. ■ Reestablishes the Governor’s Green Government (GreenGov) Council, tasked with incorporating sustainable practices into government activities. ■ Sets performance goals for commonwealth agencies focused on reducing energy consumption, green fleet technology, procurement of renewable energy, and meeting high-performance building standards in construction projects. ■ Establishes a GreenGov certification program for Pennsylvania agencies, maintained by the GreenGov Council, with evaluations based on meeting performance goals. Agencies are required to pursue sustainable actions to meet these goals. ■ Requires departments to collaborate in promoting sustainable resources and resource management practices. ■ Calls on PADEP to support the GreenGov Council in sustainability efforts. 	https://www.governor.pa.gov/newsroom/executive-order-2019-01-commonwealth-leadership-in-addressing-climate-change-and-promoting-energy-conservation-and-sustainable-governance/

Citation	Summary & Key Elements	Source
P.L. 935, No. 70 (2008)	<p>Title: Pennsylvania Climate Change Act</p> <p>Summary: Mandates the development of inventories, reports, and an action plan to address the human and economic impact of climate change in Pennsylvania.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Requires the development of a report outlining the projected impacts of climate change in Pennsylvania, including its human and economic effects. After the development of the initial document (9 months after the act was adopted), periodic updates are required at least every three years. The law Initiates a process to create a greenhouse gas (GHG) inventory annually, which will inform the climate change action plan. ■ Creates a Climate Change Advisory Committee to support the department in implementing requirements of this act. ■ Establishes a voluntary GHG registry for businesses, governments, institutions, and other organizations to report reductions or avoidances of GHG emissions. ■ Sets forth a process for development of a climate change action plan within 15 months of the act's passage and every three years afterwards. This plan will monitor trends in GHG emissions, identify methods to reduce or offset GHG emissions, evaluate the costs and benefits of recommended actions, and make legislative recommendations to the General Assembly to support plan implementation. 	https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2008/0/0070..HTM

GRANTS AND INCENTIVE PROGRAMS RELATED TO FOOD WASTE REDUCTION

Through its recycling fee system, established by Act 101, Pennsylvania offers a variety of funding mechanisms to support materials management. Certain wasted food prevention and diversion initiatives would be eligible for the grants outlined below.

Citation	Summary & Key Elements	Source
P.L. 572, No.198 Cl. 35 (1974)	<p>Title: Pennsylvania Solid Waste—Resource Recovery Development Act</p> <p>Summary: Establishes a mechanism by which the commonwealth can provide grants and loans to development agencies for demonstration projects for solid waste disposal or processing and/or a resource recovery system, and grants powers to the PADEP.</p>	https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1974/0/0198..HTM
Small Business Advantage Grant	<p>Summary: Provides 50 percent matching funds up to \$7,000 for energy efficiency, pollution prevention, or waste reduction initiatives.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ To be eligible, a business must have no more than 100 full-time employees. ■ Activities must save the business at least \$500 and reduce pollution-prevention expenses by 25 percent annually, unless it is a natural resource protection project. ■ Applications opened July 24, 2020, and will be accepted until funds are exhausted. 	https://www.dep.pa.gov/Citizens/GrantsLoansRebates/SmallBusinessOmbudsmanOffice/Pages/Small%20Business%20Advantage%20Grant.aspx
Environmental Education Grants Program Environmental Education Act, P.L. 105, No. 24 Cl. 24 (1993)	<p>Summary: Provides funding for formal and informal education projects that focus on environmental topics, established by the Environmental Education Act.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Available for schools, incorporated conservation and education organizations, colleges and universities, conservation districts, nonprofits, and businesses. ■ Since program initiation, has awarded \$12 million in funding. ■ Mini grant awards are available for up to \$3,000, and recipients are strongly encouraged, but not required, to provide matching funds. General grants are also available in two levels -ranging in levels from \$3,001 to \$20,000 and \$20,001 to \$85,000, and require a 20 percent match. ■ Funding is typically provided on an annual basis, with applications opening in September and closing in December for a grant period starting the following July. 	<p>DEP Guidance: https://www.dep.pa.gov/Citizens/EnvironmentalEducation/Grants/Pages/default.aspx</p> <p>Law: https://www.legis.state.pa.us/WU01/LI/LI/US/PDF/1993/0/0024..PDF</p>

Citation	Summary & Key Elements	Source
<p>903 County Recycling Coordinator Grant Municipal Waste Planning, Recycling and Waste Reduction Act, P.L. 556, No. 101, Cl. 27 §903 (1988)</p>	<p>Summary: Provides 50 percent reimbursement for expenses and salaries for a county recycling coordinator.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Funds are disbursed from the Recycling Fund, paid for by a \$2-per-ton recycling fee on all waste disposal. ■ To be eligible, counties must comply with conditions outlined in previous grants and the regulations of Act 101. ■ Applications are accepted beginning on January 1 for the following year. 	<p>DEP Guidance: https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/FinancialAssistance/Pages/default.aspx</p> <p>Law: https://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1988&sessInd=0&smthL-wind=0&act=101&chpt=9&scn=3&-subscn=0</p>
<p>901 Municipal Waste Planning Grant Municipal Waste Planning, Recycling and Waste Reduction Act, P.L. 556, No. 101, Cl. 27 §901 (1988)</p>	<p>Summary: Supports county governments in developing municipal waste management plans, conducting related studies or research, conducting feasibility studies for composting facilities, and implementing educational programs and technical assistance.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Funds of 80 percent of project costs up to \$75,000 are available per municipality per year. ■ A pre-application conference is required with PADEP before pursuing funding, in addition to a pre-application. 	<p>DEP Guidance: https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/FinancialAssistance/Pages/default.aspx</p> <p>Law: https://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1988/0/0101..HTM</p>
<p>902 Recycling Program Development and Implementation Grant Municipal Waste Planning, Recycling and Waste Reduction Act, P.L. 556, No. 101, Cl. 27 §902 (1988)</p>	<p>Summary: Provides funding for county and municipal recycling programs, including reimbursement of up to 90 percent of eligible program expenses.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ A pre-application conference is required with PADEP before pursuing funding, in addition to a pre-application. ■ Applications are due September 24, 2021 at 5:00 pm. 	<p>DEP Guidance: https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/FinancialAssistance/Pages/default.aspx</p> <p>Law: https://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HTM&yr=1988&sessInd=0&smthL-wind=0&act=101&chpt=9&scn=2&-subscn=0</p>
<p>904 Recycling Performance Grant Municipal Waste Planning, Recycling and Waste Reduction Act, P.L. 1347, No. 140 Cl. 27 §904 (2006)</p>	<p>Summary: Provides performance-based grants to municipalities operating successful recycling programs based on type and weight of source-separated recyclable materials and population of the municipality.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Available to municipalities; requires application to PADEP. ■ Application period opened April 17, 2021 at 8 am and closes December 30, 2021 at 5 pm. 	<p>DEP Guidance: https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/FinancialAssistance/Pages/default.aspx</p> <p>Law: https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2006&sessInd=0&act=140</p>

Citation	Summary & Key Elements	Source
<p>Food Recovery Infrastructure Grant P.L. 556, No. 101 Cl. 27 §301 (1988)</p>	<p>Summary: Grant funding was offered through PADEP to support registered nonprofit organizations' efforts to reduce food waste, through application to the Department of Community and Economic Development.</p> <p>Key Elements:</p> <ul style="list-style-type: none"> ■ Funds were available from the Recycling Fund to procure equipment for food preparation, transportation, and storage, including installation and shipping costs. ■ Matching funds for the project included costs related to program implementation and operation, such as fuel, labor, and interest payments. ■ Awardees were required to maintain the expanded program for three years after the award to keep the grant funding; programs that failed to do so were subject to requirements to partially or fully reimburse PADEP. ■ Funding opportunity has been closed with no set date for new rounds, due to funding restrictions. 	<p>DEP Guidance: https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/FinancialAssistance/Pages/default.aspx</p> <p>DEP Pre-application: http://files.dep.state.pa.us/Waste/Recycling/RecyclingPortalFiles/Documents/FoodInfrastructureGrant-Pre-ApplicationDocument2020.pdf</p> <p>Law: https://www.legis.state.pa.us/cfdocs/legis/LI/uconsCheck.cfm?txtType=HT-M&yr=1988&sessInd=0&smthLwInd=0&act=101&chpt=3&sctn=1&subscn=0</p>

Food Waste Reduction Policy Gap Analysis: Policy Assessment Rubric

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
NO POLICY									
No organics disposal bans or mandatory organics recycling laws for food waste have been enacted, and there is no financial incentive structure to encourage food donation or food waste diversion.	There are no laws pertaining to date labels on food products.	There is no state-based liability protection for donated food.	There are no tax incentives for food donation.	<p>Solid waste regulations have no separate streamlined tier for processing source-separated organics. That is, food waste composting is considered solid waste composting, and this presents a barrier to entry for small composters.</p> <p>There is no acknowledgment of anaerobic digestion of source-separated organics from the municipal solid waste stream.</p> <p>No exemption tier exists for small quantities of source-separated food waste.</p>	N/A	No regional or statewide food systems plans exist. Some local plans may exist.	No solid waste management plan or organics management plan exists at the state level.	No climate action goals exist.	No state plans, programs, or policies allocate funding or incentives to support food waste reduction.

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WEAK POLICY									
<p>Organics disposal bans or mandatory organics recycling laws have been enacted but are ineffective due to exemptions, limited scope, and/or lack of guidance.</p>	<p>The state requires date labels for certain foods and prohibits or limits the sale or donation of food after its label date.</p>	<p>State-based liability protections for food donation exist but are no broader than the federal-level protections or cover either food donors or food rescue organizations, but not both.</p>	<p>N/A</p>	<p>There is a regulatory tier that includes source-separated organics, but at least two of the following are true:</p> <ul style="list-style-type: none"> ■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility. ■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation. ■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed. 	<p>Share tables are allowed, but the state provides no resources or guidance on food donation safety, OR the state's share table rules are more restrictive than federal guidance.</p>	<p>Some regional food systems plans exist, but they do not have the support of the state and do not adequately consider food waste reduction in food systems planning.</p>	<p>Solid waste management plans exist but are out of date (more than 10 years old) and do not highlight food waste as a diversion opportunity (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion).</p>	<p>Climate action goals exist, but one of the following is true:</p> <ul style="list-style-type: none"> ■ Goals are in the form of executive orders, with no legislative framework. ■ There has been limited legislative action but no real framework or actionable next steps to achieve targets. 	<p>Grants, incentives, or funds for food waste reduction are available, but more than one of the following is true:</p> <ul style="list-style-type: none"> ■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Funding opportunities are not made known to or accessible to relevant applicants. ■ Available funding is unsustainable or insufficient to support desired activities (includes the issuance of one-time grants but does not include funding on pause due to COVID-19). ■ No technical assistance is available to food service waste generators to support food waste reduction efforts.

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
MODERATE POLICY									
Organics disposal bans or mandatory recycling laws are imposed on select commercial generators, with few exemptions.	The state requires date labels for certain foods but does not prohibit or limit the sale or donation of food after its label date.	State-based liability protections cover donations directly to individuals or donations that are supplied for a small fee, or are otherwise slightly more expansive than the federal-level protections.	The state offers a tax incentive for donating food, but the incentive does not fully offset the costs associated with donation, including transportation.	<p>There is a regulatory tier that includes source-separated organics, and the state may have committed to market development for recycled organic materials, but one of the following is true:</p> <ul style="list-style-type: none"> ■ Requirements for composting source-separated organics are the same as those for composting mixed solid waste, creating significant barriers to opening a facility. ■ Quantity or acreage limitations for source-separated organics tier(s) negatively impact economic viability of operation. ■ Regulations include language about anaerobic digestion of source-separated organics but are vague or have no language addressing what is allowed. 	Share tables are allowed, and the state provides share table guidance, though that guidance is limited.	<p>Robust regional food systems plans or state food systems plans exist, but one of the following is true:</p> <ul style="list-style-type: none"> ■ Framework or support to achieve targets is limited. ■ There is no coordination with other regional food systems plans (if no state plan exists). ■ Plans' consideration of food waste reduction is inadequate. 	Solid waste management plans and/or organics management plans exist and highlight food waste as a diversion opportunity (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion) but are out of date (more than 10 years old) or have limitations.	<p>Climate action goals exist, and one of the following is true:</p> <ul style="list-style-type: none"> ■ Legislated climate action planning sets forth recommendations for reducing food waste. ■ Specific departments have been tasked with actionable next steps for moving policy forward. 	<p>Grants, incentives, or funds for food waste reduction are available, and one of the following is true:</p> <ul style="list-style-type: none"> ■ Funding is not explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Available funding is unsustainable or insufficient to support desired activities. ■ No technical assistance is available to food service waste generators to support food waste reduction efforts.

Organics Disposal Bans and Recycling Laws	Date Labeling	Food Donation Liability Protections	Tax Incentives for Food Rescue	Organics Processing Infrastructure Permitting	Food Safety Policies for Share Tables	Food Systems Plans, Goals, and Targets	Plans Targeting Solid Waste	Climate Action Goals	Grants and Incentive Programs Related to Food Waste Reduction
STRONG POLICY									
<p>Organics disposal bans or mandatory recycling laws for food waste have been enacted and are enforced for all commercial generators (and potentially for individuals at the household level).</p>	<p>The state maintains a standardized, mandatory date labeling policy that clearly differentiates between quality-based and safety-based labels; the state does not prohibit or limit the sale or donation of food after its label date; and the state has issued clear permission to donate after the quality-based date.</p>	<p>State-based liability protections are more expansive than the Bill Emerson Good Samaritan Food Donation Act and apply to donations directly to individuals as well as donations that are supplied to the final consumer for a small fee.</p>	<p>The state offers tax deductions or tax credits for donating food that offset the costs associated with donation, including transportation.</p>	<p>The state has a regulatory tier that includes source-separated organics and has committed to market development for recycled organic materials, and all of the following are true:</p> <ul style="list-style-type: none"> ■ Policy reduces barriers to entry for composting source-separated organics, such as through simplified permitting for the addition of food scraps at existing yard trimmings composting facilities or via exemption from permitting for small-scale and/or community composting operations. ■ Restrictions imposed on facility design and operation are in sync with best management practices for composting of source-separated organics. ■ There is a separate permitting pathway in solid waste regulations for anaerobic digestion of source-separated food waste that includes, where applicable, requirements similar to those imposed on composting source separated food waste—for example, contaminant limits on digestate that are similar to limits imposed on compost. 	<p>Share tables are allowed and encouraged, and the state provides state-specific guidelines or instructions about food safety as it relates to donation.</p>	<p>The state has developed comprehensive, statewide food systems plans, and both of the following are true:</p> <ul style="list-style-type: none"> ■ There is a robust framework or support to achieve clear goals and targets. ■ Reduction of food loss and waste is a major component of food systems plans. 	<p>Solid waste management plan, zero waste plan, or organics management plan is kept current, and it outlines waste diversion goals and recommendations for diversion, including reduction of food waste (via prevention, rescue, donation, and/or processing through composting or anaerobic digestion).</p>	<p>Climate action goals exist, and both of the following are true:</p> <ul style="list-style-type: none"> ■ Legislated climate action planning sets forth recommendations for reducing food waste. ■ Specific departments have been tasked with actionable next steps for moving policy forward. 	<p>Grants, incentives, or funds for food waste reduction are available, and all of the following are true:</p> <ul style="list-style-type: none"> ■ Funding is explicitly allocated for food waste reduction work as opposed to other diversion strategies. ■ Available funding is sustainable and sufficient to support desired activities. ■ Free technical assistance is available to food service waste generators to support food waste reduction efforts.

ENDNOTES

- 1 Katie Sandson and Emily Broad Leib, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, Harvard Food Law and Policy Clinic and the Center for EcoTechnology, July 2019, <https://wastedfood.cetonline.org/wp-content/uploads/2019/07/Harvard-Law-School-FLPC-Center-for-EcoTechnology-CET-Organic-Waste-Bans-Toolkit.pdf>.
- 2 7 PA. CODE § 59a.15 (2020); 7 PA. CODE § 46.246 (2003); 7 PA. CODE § 49.4 (2020).
- 3 10 PA. Stat. Ann. §§ 351–58 (1981).
- 4 H.B. 187, 2021 Leg., Reg. Sess. (Pa. 2021).
- 5 Pennsylvania Department of Community and Economic Development, *Neighborhood Assistance Program: Program Guidelines*, March 2021, <https://dced.pa.gov/download/neighborhood-assistance-program-nap-guidelines/?wpdmdl=86209>.
- 6 Pa. Dept. of Environmental Protection, Standards Conditions General Permit WMGM045, https://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/WasteMgtPortalFiles/SolidWaste/Municipal_Waste/GP/WMGM045.pdf; Pa. Dept. of Environmental Protection, General Permit WMGM017, On-Farm Source Separated Composting (2020), https://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/WasteMgtPortalFiles/SolidWaste/Municipal_Waste/GP/WMGM017.pdf.
- 7 Pennsylvania Department of Environmental Protection (hereinafter PADEP), Bureau of Waste Management, Division of Municipal and Residual Waste, “General Permit WMGR025,” February 9, 2008, https://files.dep.state.pa.us/Waste/Bureau%20of%20Waste%20Management/lib/landrecwaste/residual_waste/gp/wmgr025.pdf.
- 8 Pennsylvania Governor’s Food Security Partnership, *Setting the Table: A Blueprint for a Hunger-Free PA*,” July 2016, <https://www.dhs.pa.gov/about/Ending-Hunger/Documents/Setting%20the%20Table.pdf>.
- 9 PADEP, *Pennsylvania Climate Action Plan: Strategies and Actions to Reduce and Adapt to Climate Change*, April 29, 2019, <http://www.dep.greenport.state.pa.us/eLibrary/GetDocument?docId=1454161&DocName=2018%20PA%20CLIMATE%20ACTION%20PLAN.PDF%20%20%20%3cspan%20style%3D%22color:blue%3b%22%3e%28NEW%29%3c%2Fspan%3e>.
- 10 PADEP, “Recycling Technical Assistance,” <https://www.dep.pa.gov/Business/Land/Waste/Recycling/Municipal-Resources/TechnicalAssistance/Pages/default.aspx> (accessed Feb. 16, 2021).
- 11 PADEP, “Facility Permitting Requirements,” <https://www.dep.pa.gov/Business/Land/Waste/Recycling/Composting/Pages/Facility-Permitting-Requirements.aspx> (accessed Feb. 16, 2021).
- 12 A community composting site in Philadelphia is communicating with PADEP about using a modified on-farm composting permit (GP17) to be allowed to accept food waste. The operation is on City of Philadelphia parkland.
- 13 Municipal wastewater treatment plants accepting hauled-in food waste must file a Supplemental Report with a monthly Discharge Monitoring Report to PADEP as required by NPDES permit.
- 14 Commonwealth of Pennsylvania, “Governor’s Goals,” <https://data.pa.gov/stories/s/kcju-zzfu> (accessed Feb. 16, 2021).