

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
POLICY OFFICE**

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AUTHORITY:

Article I, Section 27 of the Pennsylvania Constitution

Governor's Executive Order 2003-02

3 P.S. Section 901 *et seq.* - Act 43 of 1981, as amended - Agricultural Area Security Law

16 P.S. Sections 11941 *et seq.* - Act 515 of 1966, as amended; An Act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest water supply or open space uses.

32 P.S. Sections 5001-5013 - Act 442 of 1968, Conservation and Land Development

52 P.S. Section 30.55(h) – Act 319 of 1968, as amended - Coal Refuse Disposal Control Act

52 P.S. Section 1396 (a)(2)j – Act 418 of 1945, as amended – Surface Mining Conservation and Reclamation Act

52 P.S. Section 3307(c)(3) – Act 219 of 1984, as amended – Noncoal Surface Mining Conservation and Reclamation Act

53 P.S. Sections 10101-11006 - Act 247 of 1968, as amended - Municipalities Planning Code

71 P.S. Section 106 - Act 100 of 1979 – Agricultural Land Condemnation Approval Board

72 P.S. Section 5490.1 *et seq.* - Act 319 of 1974, as amended - Clean and Green

26 U.S.C. Section 170 (h)(3) - IRS definition of “qualifying conservation organization”

7 CFR Chapter VI, Part 657.5 - USDA, NRCS definition of “Prime and Unique Farmland”

USDA, Natural Resource Conservation Service (NRCS), county soil surveys

25 Pa. Code §71.21(a)(5)(i)(G)

25 Pa. Code §77.511-515 Topsoil

25 Pa. Code §86.1, 87.1, 88.1, 89.5 and 90.1 Definition of Prime Farmland

25 Pa. Code §86.37(a)(13) Criteria for Permit Approval

25 Pa. Code §87.53, 88.32, 88.491(k), 89.121 or 90.22 Prime farmland investigation

25 Pa. Code §87.83, 87.177-181, 88.61, 89.122, 90.45 and 90.161-165

25 Pa. Code §§87.96-100, 88.86-90, 89.131-134 and 90.96-100

25 Pa. Code §92

25 Pa. Code §102.2

25 Pa. Code §105.15 (b)(1-3)

25 Pa. Code §236.122(b)(1), (2), (5) and 236.128(a)(7) and (b)(1),(5),(6)

25 Pa. Code §269a.28 and 269a.50(b)(15)

25 Pa. Code §271.127 and 287.127

25 Pa. Code §712.21(a)(5)(i)(G)

Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP

Review of Permits for Facilities and Infrastructure

POLICY: DEP will seek to help protect the Commonwealth's prime agricultural land from irreversible conversion to uses that result in its loss as an agricultural or conservation resource. DEP will not use Commonwealth funds or Commonwealth administered federal funds to encourage the conversion of prime agricultural land to uses other than agriculture or conservation when feasible alternatives are available. In the implementation of this policy, DEP will cooperate with the Bureau of Farmland Preservation in the Department of Agriculture and other Commonwealth agencies that have a role in farmland preservation, conservation and regulation.

PURPOSE: The purpose of this guidance is to provide policy guidance to DEP staff to: 1) consider ways to prevent the irreversible loss of prime agricultural land and 2) administer DEP's programs so that DEP funds and DEP-administered federal funds are not used to encourage the conversion of prime agricultural land to other uses when feasible alternatives are available.

APPLICABILITY: DEP will apply this policy where it has regulatory and decision making discretion pursuant to legal authority and through the administration of all DEP programs and regulations. This policy applies to DEP staff and to applicants for DEP permits, approvals and grants. Specifically, it applies to proposed projects that might impact prime agricultural land. The programs that impact the preservation of prime agricultural land and the nature of the interaction are detailed in the guidance.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

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DEFINITIONS:

"Agricultural Land" is land used for agricultural operations as defined by the Act of May 29, 1993 (P.L. 12, No. 6) known as the Nutrient Management Act.

"Agricultural Security Area" is farmland approved as such by local governments according to the procedures in Act 43 of 1981.

"Agricultural Production" is production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced

by the farm operator. The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

“Easement” is an interest in land owned by another that entitles its holder to a specific limited use or enjoyment. Specifically related to this guidance, such easements include: 1) Easements held by the Commonwealth or a county under the authority of the Agricultural Area Security Law (Act 43 of 1981, as amended); 2) Easements owned by any other “qualified conservation organization,” as defined at Section 170 (h)(3) of the Internal Revenue Code, for farmland which is used for agricultural operations. Qualified conservation organizations can include private nonprofit land conservation organizations, in addition to local governments and state governments; and 3) agricultural easements held under the Conservation and Preservations Easements Act.

“Effective Agricultural Zoning” is a zoning ordinance adopted pursuant to the Municipalities Planning Code (Act 247 of 1968, as amended) that delineates an area of agriculturally valuable soils and existing farms.

“Land Historically Used for Cropland” (where used by the Coal Mining Program) is land defined at 25 Pa. Code 86.1.

“Land in Soil Capability Classes I, II, III & IV” is land as defined by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) and published as county soil surveys.

“Prime Agricultural Land” is: 1) Land in active agricultural use (not including the growing of timber); 2) Land devoted to active agricultural use the preceding three years; and 3) Land that falls into at least one of the following categories of agricultural land: a) Preserved Farmland, b) Farmland in Agricultural Security Areas, c) Farmland Enrolled in Act 319 of 1974, As Amended, (Clean and Green) or Act 515 of 1966, As Amended, d) Farmland Planned for Agricultural Use and Subject to Effective Agricultural Zoning, e) Land in Soil Capability Classes I, II, III & IV and Unique Farmland f) Farmland historically used for production agriculture, g) Farms that have and implement nutrient management or manure management plans and erosion and sedimentation plans as required, h) Farmland enrolled in the USDA Conservation Reserve Program, Conservation Reserve Enhancement program and Environmental Quality Incentives Program.

“Prime Farmland” is land which is defined by the U.S. Department of Agriculture’s Natural Resources Conservation Service at 7 CFR 657.5.

“Preserved Farmland” is land: 1) Restricted to agricultural use by an agricultural conservation easement that has been recorded in the appropriate county land records office or 2) Restricted to agricultural use by deed restrictions that have been imposed under the authority of Act 442 of 1968 and that have been recorded in the appropriate county land records office.

“Unique Farmland” as defined by the USDA NRCS is land other than prime farmland that is used for the production of specific high value food and fiber crops. The USDA NRCS has established a mechanism under which Unique Farmland is identified and mapped by interested county committees.

I. BACKGROUND

The primary purpose of this policy is to implement Executive Order 2003-2. The order directs the department to list agency actions that directly or indirectly impact prime agricultural lands, provide a statement of agency guidelines and procedures that eliminate or minimize impacts detrimental to the continued use of prime agricultural lands, and describe any statutory or regulatory changes necessary to implement the intent of the executive order.

There are two fundamental ways that DEP activities affect agriculture: 1) approval decisions that affect the use of the land itself, and 2) the regulation of farming activities that protect the environment from those activities. This policy specifically addresses the preservation of farmland as it relates to land use decisions to fulfill Executive Order 2003-02. This policy is not intended to express all DEP efforts to address agriculture. DEP continues to develop programs that relate to agriculture, including the Agriculture, Communities and Rural Environment (ACRE) initiative; technical and financial assistance; and expanding partnerships with the agriculture community.

II. CHANGES TO REGULATIONS AND POLICY

In July 2004, the DEP Secretary issued a Priority Statement to guide all department activities. The statement is meant to foster creative thinking and innovation from all department staff in advancing these priorities. Included in that priority statement is a statement that DEP will, in all of its programs, promote preservation of agricultural lands.

As a result of the Priorities Statement, DEP staff is conducting a review of its policies and regulations to determine the extent to which they promote or hinder the goals outlined in the statement. DEP will propose revisions to regulations as appropriate to correspond to the priorities.

This Agricultural Land Preservation Policy provides guidance on how a regulatory review should be conducted in order to promote the preservation of agricultural lands.

To ensure that this process continues, DEP will also incorporate an evaluation of agricultural land preservation in its formal regulatory review process. The Department will amend its *Policy for Development, Approval and Distribution of Regulations* to include questions about agricultural preservation in its regulatory development and approval process.

When developing or changing regulations and guidance that have an impact on agricultural land preservation, the Department will review and take into account the guidelines noted in Section III of this policy below and the provisions of Executive Order 2003-2. DEP will also look for opportunities to make farming profitable while protecting the environment, including the promotion of energy technology and trading programs. The department will seek to maintain a balanced approach that recognizes the needs and rights of farmers and the needs and rights of citizens to a clean and safe environment.

DEP will continue to work cooperatively with the Department of Agriculture, Regional and County Planning Boards, County and Municipal Governments, the Agricultural Advisory Board, County Conservation Districts, industry groups and concerned citizens to achieve the dual goals of the preservation of Pennsylvania's farmland and protection of Pennsylvania's natural resources.

III. GENERAL GUIDANCE FOR PRIME AGRICULTURAL LAND PRESERVATION

A. Guidance to department staff

Department staff will seek to promote innovative ways to allow farms to generate income that allow agricultural operations to remain profitable.

Grants

When choosing sites or approving grants, no DEP funds will be used for inappropriate or non-agricultural development activities in the areas listed in Section III.B below.

B. Guidance Based on Executive Order Priorities

When conducting activities and analysis under this policy, including any regulatory changes, that activity and analysis will take into account the following types of agricultural land. At a minimum, when statutory authority exists, DEP will encourage avoidance, minimization of impacts and mitigation in these areas.

The Prime Agricultural Land to be protected under this guidance document shall include:

Lands in active agricultural use, not including the growing of timber, that have been devoted to active agricultural use the preceding three years and that fall into at least one of the following categories of agricultural land:

- *Preserved Farmland*
- *Farmland in Agricultural Security Areas*

- *Farmland Enrolled in Act 319 of 1974, As Amended, (Clean and Green) or Act 515 of 1966*
- *Farmland planned for agricultural use and subject to effective agricultural zoning*
- *Farmland with soil capability Classes I, II, III & IV and Unique Farmland*
- *Farmland Historically Used for Production Agriculture*
- *Farms that have and implement Nutrient Management or Manure Management plans and Erosion and Sedimentation plans as required*
- *Farmland enrolled in the USDA Conservation Reserve Program, Conservation Reserve Enhancement Program, or Environmental Quality Incentives program.*

DEP will amend its regulations so that authorizations for activities that impact such lands shall be consistent with the terms of the protection conveyed in any easements, deed restrictions, or agriculture security areas pursuant to related statutes and regulations.

For agricultural lands not protected by easements, deed restrictions or agriculture security area, DEP will amend its regulations so that DEP will require an applicant to describe the nature of the project, the potential impacts that the project will have, and, to the extent practicable, the steps the applicant is going to take to avoid, minimize, and mitigate any adverse impacts on agricultural lands.

C Relation to Agricultural Zoning

DEP will actively encourage and provide incentives for municipalities to engage in planning and zoning at the local level, and to protect agricultural land through zoning.

1) *Acts 67/68*

Acts 67, 68 and 127 of 2000 amended the Municipalities Planning Code (MPC) to require state government agencies to consider local land use comprehensive plans and zoning ordinances in making certain decisions, and authorizes them to rely upon local plans and ordinances in certain circumstances. DEP has developed a policy to address these obligations in its permitting and funding processes.

DEP's land use policy requires applicants for permits or funding related to facilities and infrastructure to submit land use information that includes information about Agricultural Security Areas and agricultural conservation easements. DEP may deny, approve, or attach special permit conditions to a permit where a conflict exists with local land use plans or

zoning ordinances under this authority in the MPC and the relevant statute under which the approval is sought. For certain grant programs, projects that demonstrate consistency between the proposed project and local comprehensive plans and implementing ordinances will receive priority in the ranking or scoring of their application.

2) *Use of Permit Conditions*

When DEP has the power to approve the request for authorization under applicable DEP administered statutes and regulations, DEP's policy is to consider placing a condition in the permit or authorization stating the following, or its equivalent as modified for a specific program:

The permittee (or where applicable, the person obtaining a DEP approval) is responsible for complying with valid, applicable, local comprehensive plans and zoning ordinances adopted pursuant to the Municipalities Planning Code and lawful under Pennsylvania law. A DEP authorization or permit does not supersede any valid local laws or ordinances, including zoning or other land use ordinances.

The above permit condition language alerts permittees and persons seeking DEP approvals of their obligation to comply with local zoning ordinances. Only after a local authority enforces a local zoning ordinance, and a court of competent jurisdiction subsequently renders an adjudication, is the DEP permit condition or approval regarding local zoning ordinances considered to be breached.

3) *Where DEP Does Not Have Direct Authority*

In cases where prime agricultural land will be lost and there is no local zoning in place which protects prime agricultural land, DEP may request information from the applicant regarding the applicant's efforts to consider reasonable steps the applicant might take that would avoid or minimize the loss of prime agricultural land.

APPENDIX A
A Listing of DEP Programs that Affect Agriculture

Executive Order 2003-02 Section 5(a) requires that agencies provide “a listing of agency actions...that may directly or indirectly impact prime agricultural lands.” The following description of primary department programs that affect agricultural lands is provided to fulfill this requirement. It is intended to be illustrative of DEP programs, but is not a comprehensive listing.

I. DIRECT DEP PARTICIPATION IN AGRICULTURAL LAND CONDEMNATION AND PRESERVATION ACTIVITIES

- A. DEP Representative on the Agricultural Land Condemnation Approval Board: The Secretary, or the Secretary’s designee, serves as DEP’s representative on this Board and has a vote when the Board considers approving agricultural lands for condemnation. DEP will support comprehensive plans and zoning ordinances to preserve agricultural lands when carrying out the responsibilities of this Board.
- B. DEP Representative on the Agricultural Land Preservation Board: The Secretary, or the Secretary’s designee, serves as DEP’s representative on the Agricultural Land Preservation Board. When the Board reviews an application for preservation status, it considers whether or not the farmer has a conservation plan and a nutrient management plan. DEP will support comprehensive plans and zoning ordinances to preserve agricultural lands when carrying out the responsibilities of this Board.

II. DEP PROGRAM ACTIONS THAT IMPACT PRIME AGRICULTURAL LAND

DEP programs, through their implementation of legislation, regulation and guidance can have an impact on farmland. DEP conducted an inventory of its programs to identify how its programs affect farmland preservation. The results of that inventory are presented in this section.

A. BUREAU OF WATER SUPPLY AND WASTEWATER MANAGEMENT

The Sewage Facilities Planning Program (the “Act 537” Program): DEP occasionally denies sewage facilities permits on the basis of prime farmland concerns. DEP sewage facility planning module application review requires the applicant to identify any prime farmland concerns and rectify them with local authorities prior to approving the planning module. The local planning or zoning officials and the parties proposing the development must settle any land use problems.

Wetland and Waterway Encroachments: The program's Chapter 105 regulations require permit applicants to consider the potential effects of a project on prime farmland as part of the permit review process. Additionally, the program

discourages the use of prime farmland for the creation or restoration of a wetland to satisfy the wetland mitigation requirements.

In general, prime farmlands are not suitable for wetland mitigation. They will not naturally support a viable wetland community due to their landscape position, inadequate hydrology, depth to ground water, and soil properties.

For purposes of wetland creation or restoration the program encourages permit applicants to use previously drained or ditched areas because of the available hydrology and soil properties, which greatly improves the likelihood of a successful wetland creation or restoration project.

The National Pollutant Discharge Elimination System (NPDES) Program: The NPDES general permit and individual NPDES permits issued for specific construction activities alert permittees that they must comply with all other applicable laws and regulations, including any local zoning ordinances.

B. BUREAU OF WATERWAYS ENGINEERING

The Dam Safety Program: When a dam is built, the potential to impact farmland exists. The program's regulations [Chapter 105, Section 14 (b)(3), (4), and (8)] address potential environmental effects of a dam project. These sections require the Bureau to consider the effect of the proposed project on "the property or riparian rights of owners above, below or adjacent to the project" and "instream and downstream uses and other environmental factors." In addition, DEP may require the applicant "to submit data regarding estimated development potentials and municipal, county and regional planning related to the affected watershed."

The Bureau uses its environmental impact evaluation to identify and address prime farmland issues. Section 105.15 (b) states that DEP may require the submission of additional information regarding (1) "the potential impacts to the extent applicable of the proposed activity on...prime farmlands..."; (2) "alternatives to the proposed action including alternative locations, routings or designs to avoid or reduce significant adverse environmental impacts."; and (3) "actions to be taken through design, location or operation of the proposed structure or other activities to mitigate unavoidable significant environmental impacts created by the proposed project."

C. BUREAU OF WATERSHED MANAGEMENT

Concentrated Animal Feeding Operations (CAFOs): The department controls the water quality impacts of manure from Pennsylvania farms to make certain that all CAFOs are constructed and managed in an environmentally sound manner, while ensuring agricultural producers the opportunity to pursue agricultural production which is profitable, economically feasible, and based on sound technology and practical production techniques.

All CAFOs are required to comply with the National Pollutant Discharge Elimination System (NPDES) permit requirements. An individual permit is designed and issued to cover a specific operation while a general permit covers a category of operations. The CAFO general permit includes standard design and operational requirements applicable to all operations that qualify for coverage. Operators must comply with the required design and operational standards and permit conditions under the general permit.

DEP works closely with stakeholder groups in developing regulations for CAFOs.

D. BUREAU OF MINING AND RECLAMATION

Both the coal and noncoal mining programs alert permittees that they must comply with all other applicable laws and regulations, including the local zoning ordinances which protect farmland.

Coal Mining: Chapters 86-90, the Department's coal mining regulations, protect prime farmlands. The applicant for a coal-mining permit must conduct a preapplication investigation of the proposed permit area to determine whether lands within the area may be prime farmland [Sections 87.53, 88.32, 88.491(k), 89.121 or 90.22]. Permittees are required to restore prime farmland to equivalent levels of crop yields as non-mined land. [Sections 87.83, 87.177-181., 88.61, 89.122 90.45 and 90.161-165]. In addition, the coal mining regulations require soils to be conserved for reclamation consistent with the approved post-mining land use. (Sections 87.96-100, 88.86-90, 89.131-134 and 90.96-90.100.)

Noncoal Mining: The statutes and regulations for mining of noncoal minerals do not specifically address prime farmlands. However, the regulations require the conservation of topsoil and subsoil for reclamation and ensuring soil productivity consistent with the approved post-mining land use. Noncoal mining has multiple impacts on the resource. On the one hand, limestone from permitted non-coal mines can be used as soil amendment and, as such, improves the productivity of farmlands. On the other hand, permitting noncoal mining can result in the removal of land from agricultural production. During the permit application process, the program asks applicants to analyze the impact of their proposed activities on farmland. The program also requires the reclamation of mining support areas (roads used during mining activities, parking areas for trucks, etc.) and other areas that could support farmland.

E. BUREAU OF LAND RECYCLING AND WASTE MANAGEMENT

Municipal and Residual Waste Permitting Program: The regulations require an environmental assessment, alternatives analysis and mitigation as part of the solid waste disposal permitting processes. The environmental assessment requires detailed analysis of the potential impact of the proposed facility on the

environment, including prime farmland. The Bureau works with the Pennsylvania Department of Agriculture (PDA) to develop permit application procedures that address protection of prime agricultural land. The application procedures include requirements for the applicant to receive input from the local, state and federal agencies when the site is proposed to be located on any prime agricultural land.

Hazardous Waste Siting Criteria: The criteria for siting hazardous waste treatment and disposal facilities are established by regulation in 25 Pa. Code Chapter 269a and are divided into two phases.

Phase I criteria are exclusionary criteria and prohibit the siting of a hazardous waste treatment or disposal facility in an excluded area delineated under these criteria. One of these criteria prohibits the siting of hazardous waste treatment and disposal facilities in agricultural areas established under the Agricultural Area Security Law or in farmlands identified in Class I agricultural land by the Soil Conservation Service.

Phase II criteria identify factors that may affect the suitability of a location for a proposed hazardous waste treatment or disposal facility and permit modifications. These criteria are not exclusionary but must be addressed by the applicant and evaluated by the Department. Phase II criteria include environmental assessment considerations. One of these considerations is for proposed locations on prime or unique agricultural land as defined by the Soil Conservation Service, lands currently in agricultural use, or lands of statewide importance as designated by the Soil Conservation Service. For these locations the permit applicant must provide information and analyses to allow the Department to assess the proposed facility's consistency with Commonwealth policy, such as Executive Order 2003-2 regarding agricultural land preservation.

F. BUREAU OF AIR QUALITY

Ground-level ozone, a key component of smog, is formed when pollutants like volatile organic compounds ("VOCs") and oxides of nitrogen (NO_x) from vehicles, industry, consumer products and power plants "bakes" in the hot, summer sun. While the primary concern of ground-level ozone relates to public health, secondary concerns relate to damage that can occur to essential crops, such as corn, wheat and soybeans, decreasing their market value. The Bureau of Air Quality implements and enforces a wide variety of programs to control and reduce levels of VOCs and NO_x, which form ground-level ozone. Power plants, manufacturers and automobiles are just a few examples of sources where reductions of VOC and NO_x are being required. The Bureau also works with industry, small businesses and local air-quality agencies to implement pollution-prevention programs.

Section 4.1 of the Air Pollution Control Act specifically prohibits the Environmental Quality Board from adopting rules and regulations relating to air contaminants and air pollution arising from the production of agricultural

commodities, except as may be required by the federal Clean Air Act or its implementing regulations. The processing of agricultural commodities (excluding compost) or the disposal of residual materials resulting from such processing must occur on the premises of the farm operation in order to be covered by the exemption. The commercial production, processing or storage of compost (excluding compost derived from biosolids originating at a municipal sewage treatment facility) used predominately in the production of agricultural commodities may be conducted on premises other than the premises where the compost is being used. 35 P.S. § 4004.1

III. ASSISTANCE FOR AGRICULTURAL OPERATIONS

DEP recognizes that maintaining viable farming is also important to farmland preservation. The programs listed below assist the agriculture industry to remain viable while meeting its regulatory obligations, promote innovative technology, or help relieve pressure to develop agricultural lands.

The Nutrient Management Program: DEP and Conservation District staff support the administration of the Nutrient Management Act by the State Conservation Commission. The Act requires high-density livestock and poultry farms to develop and implement nutrient management plans. The Act also provides for educational, technical and financial assistance for developing the plans.

Conservation Reserve Enhancement Program (CREP): The CREP program is a program of the United States Department of Agriculture. Participants receive financial incentives to voluntarily enroll farmlands in the Conservation Reserve Program. Participants remove suitable cropland and marginal pastureland from agricultural production and convert the land to buffer practices. Growing Greener provides a state match to this program.

Chesapeake Bay Program: The Chesapeake Bay program provides technical and financial assistance to farmers to develop and carry out nutrient management plans, adopt field conservation practices, improve barnyard management, and install stream bank fencing.

Energy Harvest Grants: The Energy Harvest Grant Program's goal is to help make Pennsylvania a leader in clean energy generation. Energy Harvest funds renewable and alternative energy and energy efficiency deployment projects that either generate or save energy and also have a beneficial impact on water and/or air quality. Eligible proposals include renewable energy development, including biomass energy projects; waste coal reclamation for energy; demonstration of innovative energy efficiency technologies; or other clean or distributed generation projects. The program will support clean and renewable energy demonstration projects and proven technologies that can help the state better manage its energy resources, improve the environment by eliminating air pollution and protecting watersheds, and spur economic development. The program will help finance the

implementation of technologies such as biomass and wind power that will have real and measurable impacts on pollution reduction, environmental quality and energy generation, rather than projects that focus solely on public outreach and communication. DEP is particularly interested in supporting proposals that are market-driven, create jobs, and produce economic development within the Commonwealth.

Trading Program:

Nutrient Trading is a concept that uses market forces to address environmental challenges - it is the exchange of environmental improvement credits created by entities. Trading allows entities to acquire credits to help meet their obligations, providing those entities with a potentially broader range of options to pursue (e.g. it may be "cheaper" to buy credits than to install control equipment). For agriculture, some farmers may benefit from a trading program that recognizes credits that they could create and sell.

Brownfields: The Department has a nationally recognized, award-winning brownfields program. The Department's Land Recycling Program began with the legislation named the Land Recycling and Environmental Remediation Standards Act of 1995 and more commonly known as Act 2. The Land Recycling Program includes relief from liability, financial assistance, a "one cleanup program" agreement with EPA, a Brownfields Action Team, and other resources. The Department will continue to enhance this important program, making sure that brownfields are available to accommodate growth and relieve some of the pressure to develop agricultural lands.

The state brownfields program is not designed to apply to the development of typical farmland. Rather, a principal focus of the Land Recycling Program is to encourage and facilitate the voluntary cleanup of contaminated commercial and industrial land. The Program does not plan to take any action that would detract from the Commonwealth's historical and ongoing efforts to protect and preserve prime farmland and help farmers stay in business in the face of strong development pressures. Expediting and encouraging the development of farmland would be in conflict with a clearly stated purpose of Act 2. Consequently, the liability relief provided as a development incentive under Act 2 is not applicable to the development of lands that have been farmed and managed in keeping with normal farming practices. The Department has published a document titled "Addressing Pesticide Contamination on Agricultural Land Proposed for Development" that reflects the Department's approach on these matters. In light of ongoing farmland development activities, the Department will continue to address these matters in collaboration with the County Conservation Districts and other affected parties.