

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 1997-6]

Agricultural Land Preservation Policy

October 14, 1997

Whereas, Pennsylvania is the most productive agricultural state in the Northeast with more than 50,000 farms and 7.7 million acres of crop and pasture land; and

Whereas, the Commonwealth's abundant supply of agricultural land has sustained farm families, farm operations, and rural communities in Pennsylvania for generations; and

Whereas, Pennsylvania farmers are a vital component of the Commonwealth's economy, comprising the largest industry in the Commonwealth, generating over \$3.7 billion annually in farm receipts, supporting a \$43.7 billion a year agribusiness economy and employing nearly one-fifth of Pennsylvania's workforce; and

Whereas, increased land development and farm costs have caused Pennsylvania to lose more than 46 percent of its farmland since 1950; and

Whereas, Pennsylvania's future generations need to be assured a reliable source of food and fiber; and

Whereas, Federal, State, and local governments, along with individual landowners, are valuable partners in the effort to identify and preserve critical farmlands; and

Whereas, from 1988 through 1997, the Commonwealth of Pennsylvania and participating counties have invested over \$200 million, and preserved over 100,000 acres of agricultural land under the Agricultural Conservation Easement Purchase Program; and

Whereas, part of the Commonwealth's continuing efforts is to conserve its farmland, assist farm operations, and preserve the quality of life in rural communities, it is in the best interest of all Pennsylvanians that the Commonwealth modify its Agricultural Land Preservation Policy; and

Whereas, all state agencies under the Governor's jurisdiction should work together to preserve agricultural lands with a common definition of primary agricultural land and a common vision.

Now, Therefore, be it resolved that I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct to all agencies under my jurisdiction to seek to mitigate and protect against the conversion of primary agricultural land and adopt policies herewith.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter W. AGRICULTURAL LAND PRESERVATION POLICY

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§ 7.301. Policy.

It is the policy of the Commonwealth to protect, through the administration of all agency programs and regulations, the Commonwealth's "primary agricultural land" from irreversible conversion to uses that result in its loss as an environmental and essential food and fiber resource.

§ 7.302. Conversion.

Commonwealth funds and Commonwealth-administered Federal funds will not be used to encourage the conversion of "primary agricultural land" to other uses when feasible alternatives are available.

§ 7.303. Protected agricultural land.

(a) The primary agricultural land to be protected under this subchapter includes lands:

(1) In active agricultural use (not including the growing of timber).

(2) Devoted to active agricultural use the preceding 3 years.

(3) Which fall into at least one of the categories of agricultural land in subsection (b).

(b) State agencies shall provide protection to primary agricultural land under this subchapter based upon the following levels of priority:

(1) *Preserved farmland (highest priority)*. Preserved farmland includes lands that fit into either of the following categories:

(i) Farmland that is restricted to agricultural use by an agricultural conservation easement that has been recorded in the appropriate county land records office. These easements include: easements owned by the Commonwealth or county, or both, under the authority of the Agricultural Area Security Law (3 P. S. §§ 901—915) and easements owned by any other "qualified conservation organization," as that term is defined in section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)) (relating to charitable, etc., contributions and gifts). Qualified conservation organizations may include private nonprofit land conservation organizations, in addition to local governments and State governments.

(ii) Farmland that is restricted to agricultural use by deed restrictions that have been imposed under the authority of the act of January 19, 1968 (1967) (P.L. 992, No. 442) (32 P.S. §§ 5001—5013) and that have been recorded in the appropriate county land records office.

(2) *Farmland in agricultural security areas (second highest priority)*. Farmland approved by local government units after public review and comment according to the procedures in the Agricultural Area Security Law.

(3) *Farmland enrolled in the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (Clean and Green) (Act 319) programs or the act of January 13, 1966 (1965) (P.L. 1292, No. 515) (16 P.S. §§ 11941—11947) (Act 515) programs (third highest priority)*. Farmland enrolled for preferential tax assessments as land in "agriculture use" (Act 319) or "farmland" (Act 515).

(4) *Farmland planned for agricultural use and subject to effective agricultural zoning (fourth highest priority)*. Farmland designated for agricultural use in a comprehensive plan and zoning ordinance adopted in the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—70105) that delineates an area of agriculturally valuable soils and existing farms.

(5) *Land capability Classes I, II, III and IV farmland and unique farmland (fifth highest priority)*. Land capability Classes I, II, III and IV farmland are mapped by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (formerly Soil Conservation Service) and published in county soil surveys. "Unique farmland" is defined by the USDA Natural Resources Conservation Service as land other than prime farmland that is used for the production of specific high value food and fiber crops. The USDA Natural Resources Conservation Service has established a mechanism under which unique farmland is identified and mapped by interested county committees.

§ 7.304. Agricultural Land Condemnation Approval Board (ALCAB) review.

The ALCAB shall consider this policy in its review of agricultural lands proposed for condemnation authorized under section 306 of The Administrative Code of 1929 (71 P. S. § 106) (Act 100) and the Agricultural Security Law (3 P. S. §§ 901—915). Act 100 requires ALCAB's approval for the condemnation of agricultural lands for highways and solid and liquid waste disposal facilities. The Agricultural Security Law (3 P. S. §§ 901—915) requires ALCAB's approval for condemnation of land in agricultural security areas and land protected by agricultural conservation easements.

§ 7.305. Guidance documents.

Agencies under the Governor's jurisdiction shall amend their individual documents titled "Guidance for Implementation of the Agricultural Land Preservation Policy" by April 14, 1998. The amended guidance document shall be submitted to the Governor's Policy Office and the Department of Agriculture. This guidance document shall include:

- (1) A listing of agency actions including land acquisitions, planning, construction, permit review and financial assistance that may directly or indirectly impact primary agricultural lands.
- (2) A statement of agency guidelines and procedures which have been or will be instituted to eliminate or minimize impacts detrimental to the continued use of primary agricultural lands.
- (3) A description of any changes in statutes or regulations needed to implement the intent of this subchapter.

§ 7.306. Interagency committee.

The following Commonwealth agencies will participate in an interagency committee, chaired by the Department of Agriculture, to solve mutual problems in meeting the objectives of this subchapter:

- (1) The Governor's Policy Office.
- (2) The Governor's Budget Office.
- (3) The Department of Agriculture.
- (4) The Department of Community and Economic Development.
- (5) The Department of Conservation and Natural Resources.
- (6) The Department of Corrections.
- (7) The Department of Education.
- (8) The Department of Environmental Protection.
- (9) The Department of General Services.
- (10) The Department of Transportation.
- (11) The Pennsylvania Infrastructure Investment Authority.

§ 7.307. Cooperation by State agencies.

The Pennsylvania Department of Agriculture is the lead agency for implementing this subchapter. Agencies under the Governor's jurisdiction shall fully support this agricultural land preservation policy and cooperate with the Secretary of Agriculture by providing assistance and information, as necessary, to carry out the functions and responsibilities in this Subchapter.

§ 7.308. Rescission.

Executive Order 1994-3 is rescinded.



Governor

Fiscal Note: GOV 97-17. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 98-117. Filed for public inspection January 23, 1998, 9:00 a.m.]