AN ACT

Providing for the Agricultural Conservation Assistance Program and imposing powers and duties on the State Conservation Commission.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Agricultural Conservation Assistance Program Act.

Section 2. Definitions.

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

"Agricultural erosion and sedimentation control plan." A site-specific plan identifying BMPs to minimize accelerated erosion and sedimentation from agricultural runoff required by 25 Pa. Code Ch. 102 (relating to erosion and sediment control).

"Agricultural operation." The management and use of farming resources for production of crops, livestock or poultry.
"Agriculturally impaired stream miles." Stream miles that are designated impaired due to the identified source being agriculture as defined by the most recent Pennsylvania Integrated Water Quality Monitoring and Assessment Report by the Department of Environmental Protection.

"Animal concentration areas." The following:

(1) Barnyards, feedlots, loafing areas, exercise lots or other similar animal confinement areas that will not maintain a growing crop or where deposited manure nitrogen is in excess of crop needs.

(2) The term does not include:

(i) Areas managed as pastures or other cropland.

(ii) Pasture access ways, if they do not cause direct flow of nutrients to surface water or groundwater.

"Best management practice" or "BMP." A practice or combination of practices determined by the commission or United States Department of Agriculture Natural Resources Conservation Service to be effective and practical, considering technological, economic and institutional factors, to manage nutrients and sediment to protect surface water and groundwater.


"Conservation district." A county conservation district established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law.

"Conservation plan." A plan that identifies conservation practices and includes site-specific BMPs for agricultural plowing or tilling activities and animal heavy-use areas.

"Cropland acres." The acres of land used to produce adapted crops for harvest, which includes both cultivated and noncultivated crops and areas managed for forage production that
are harvested by livestock, or a combination of livestock and mechanical harvesting.

"Erosion." The natural process by which the surface of the land is worn away by water, wind or chemical action.

"Livestock." Animals raised, stabled, fed or maintained on an agricultural operation with the purpose of generating income or providing work, recreation or transportation. The term does not include aquatic species.

"Manure management plan." A plan developed and implemented in accordance with 25 Pa. Code Ch. 91 (relating to general provisions).

"Nutrient." A substance or recognized plant nutrient, element or compound which is used or sold for its plant nutritive content or its claimed nutritive value. The term includes, but is not limited to, livestock and poultry manures, compost as fertilizer, commercially manufactured chemical fertilizers, biosolids or combinations thereof.

"Nutrient management plan." A written site-specific plan which incorporates BMPs to manage the use of plant nutrients for crop production and water quality protection consistent with the criteria established in 3 Pa.C.S. §§ 504 (relating to powers and duties of commission) and 506 (relating to nutrient management plans).

"Poultry." Birds raised, fed or maintained on an agricultural operation with the purpose of generating income.

"Program." The Agricultural Conservation Assistance Program established under section 4(a).

"Sediment." Soils or other erodible materials transported by storm water as a product of erosion.

"Surface waters." Perennial and intermittent streams,
rivers, lakes, reservoirs, ponds, wetlands, springs, natural
seeps and estuaries. The term does not include water at
facilities approved for wastewater treatment such as wastewater
treatment impoundments, cooling water ponds and constructed
wetlands used as part of a wastewater treatment process.
"Technical assistance." Advice, technical expertise,
information, training and tools provided to a landowner,
commission, conservation district or others regarding program
implementation, including, but not limited to, the proper
planning, design and installation of best management practices.
"Watershed implementation plan." A plan created to achieve
water quality improvement goals within a watershed of this
Commonwealth, including, but not limited to, Chesapeake Bay
Watershed implementation plans, county action plans or other
watershed-based restoration and implementation plans.

Section 3. Statement of purpose.
The purpose of this act is to establish a program to provide
financial and technical assistance for the implementation of
best management practices on agricultural operations.

Section 4. Agriculture Conservation Assistance Program.
(a) Establishment.--The Agriculture Conservation Assistance
Program is established within the commission.
(b) Sources of funding.--Funding for the program may be
provided through any of the following:
(1) Money appropriated for purposes of the program.
(2) Federal money appropriated or authorized for
purposes of the program.
(3) Money received from another governmental agency
through an interagency agreement or memorandum of
understanding.
(4) A gift or other contribution from a public or private source.

(5) Return on money dedicated for the program.

(c) Administration expenses.--The commission may dedicate up to 4% of the funds allocated for expenses incurred in administration of the program.

Section 5. Powers and duties of commission.

(a) General rule.--The commission shall:

(1) Adopt performance standards for:
   (i) Administration and oversight of the program.
   (ii) Best management practices to be implemented and receive funding under the program.

(2) Provide a system of program evaluation and quality control.

(3) Annually assess the program and report the assessment to the following:
   (i) The chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the Senate.
   (ii) The chairperson and minority chairperson of the Environmental Resources and Energy Committee of the Senate.
   (iii) The chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the House of Representatives.
   (iv) The chairperson and minority chairperson of the Environmental Resources and Energy Committee of the House of Representatives.

(4) Develop a training, education and technical assistance program for technicians, engineers and other individuals performing work under the program.
(5) Create a system for collecting and reporting of collected data on funded practices to governmental agencies, in a manner consistent with criteria established under Federal and State laws.

(b) Delegation of powers and duties.--In performance of its powers and duties, the commission may delegate to The Pennsylvania State University or other entity determined appropriate by the commission to execute specific administrative tasks and activities. Up to 4% of the funds provided under section 4(b) may be committed by the commission to compensate the entities performing the administrative tasks and activities.

Section 6. Apportionment criteria.

(a) General rule.--The commission shall apportion the funds under section 4(b) to participating conservation districts based on written apportionment criteria developed by the commission to establish priorities based on preventing nutrient and sediment pollution. The apportionment criteria shall consider:

(1) Agriculturally impaired stream miles.
(2) The number of cropland acres.
(3) The number of farms.
(4) The number of livestock and poultry.
(5) Other criteria as established by the commission.

(b) Unused funds.--Any apportioned funds that are not used in any fiscal year may roll over for the following fiscal year. Any unused apportioned funds after two years shall be reapportioned to participating conservation districts in the following year, consistent with the apportionment criteria prescribed under subsection (a).

Section 7. Powers and duties of participating conservation districts.
(a) General rule.--Each conservation district participating in the program shall manage and administer funds apportioned by the commission in a manner consistent with this act and the guidelines established by the commission. Each participating conservation district shall enter into an agreement with the commission to establish the administrative responsibilities and activities to be performed by the conservation district.

(b) Use of funds.--Funds apportioned to a participating conservation district shall be used for:

1. Approving and providing financial assistance to landowners and farmers to install and implement BMPs, consistent with the criteria for approval of projects provided under section 10.
2. Costs for technical training and education and technical assistance in administration of projects approved by the conservation district.
3. Establishment of procedures for submission and approval of applications for financial assistance for BMPs that minimize, to the extent feasible, procedural tasks and obligations for applicants.
4. Adoption of written criteria for ranking of applications for financial assistance and determination of proposed projects to be given priority.
5. Entering into written agreements with recipients of approved funding.
6. Administration and procedures to ensure recipients of financial assistance timely complete projects in a manner that meets established design and construction standards.
7. Adoption of procedures to ensure that recipients of the approved funding will fully comply with requirements for
future maintenance activities established under the terms of
agreement.

(8) Development of procedures to ensure proper
performance of agreements executed under the program.

(c) Administration.--A participating district may dedicate
up to 12% of the annual amount apportioned by the commission
under section 6 for expenses incurred in administration of the
program.

Section 8. Advisory committee.

(a) General rule.--Within a conservation district, a
committee may be appointed by the conservation district board to
advise the program and identify local priorities and
opportunities to complement other programs.

(b) Members.--The committee shall include at a minimum one
staff member of the conservation district and one local
representative of the United States Department of Agriculture
Natural Resources Conservation Service and may include up to
three other local representatives who are knowledgeable of
agricultural operations and conservation.

Section 9. Applications and certifications.

(a) Application process.--A person may apply to its
applicable delegated conservation district or the commission for
an eligible project under the program. The conservation district
shall prescribe the form and manner of the application. The
application, at a minimum, shall include:

(1) The location of the project.

(2) The description of the project, including the
planned BMPs.

(3) If applicable, the amount and sources of funding
available for the project.
(4) The total cost of the project.

(5) Any other information as required by the conservation district.

(6) Relevance of the project to the development, improvement or implementation of the applicant's manure or nutrient management plan, conservation plan or erosion and sedimentation plan.

(b) Review of applications. -- The conservation district shall review complete applications based upon the criteria established under section 10 on an ongoing basis and in the order received. Within 90 days of receipt of a complete application, unless extenuating circumstances prevent the conservation district from doing so, the conservation district shall notify the applicant of:

(1) Whether the project is approved for funding under the program.

(2) The total amount of funds approved for the project.

(3) The amount of each type of funding approved for the project.

(c) Notice of completion and certification. -- Upon completion of a project funded under this program, the person who received the approval for the project shall notify the conservation district of the completion of the project and shall submit all documents to certify the completion.

(d) Inspection. -- Projects funded under this program may be subject to inspection by the commission, conservation district or their designated agent.

(e) Distribution of funds. -- The funds shall be distributed upon certification and verification that the funded project has been completed and design and construction standards have been
Section 10. Criteria for evaluation of applications.

In approving applications for eligible projects under the program, the applicable delegated conservation district or commission shall give priority to complete applications based upon the following criteria:

(1) The project meets the goals of any applicable watershed implementation plan.

(2) If applicable to the agricultural operation, the applicant has a conservation plan or agricultural erosion and sediment control plan and a manure management plan or nutrient management plan. Development of such plans shall be included in the application if not yet developed prior to the application.

(3) The project implements best management practices included in a conservation plan, agricultural erosion and sediment control plan, manure management plan or nutrient management plan. For purposes of this paragraph, the conservation district or commission shall give priority to projects that implement best management practices for control of nitrogen or phosphorus.

(4) An agricultural operation with an animal concentration area shall have implemented best management practices necessary to abate storm water runoff, loss of sediment, loss of nutrients and runoff of other pollutants from the animal concentration area, or the implementation of such best management practices shall be included in an application for funds.

(5) Proximity to surface waters, public drinking water sources or karst geology with underground drainage systems or
open sinkholes.

(6) The project meets the design and construction standards established by the commission. If standards do not exist for a best management practice approved by the commission, the commission may establish or approve design, construction and certification standards for such a best management practice.

(7) Any other criteria considered by the conservation district and approved by the commission.

Section 11. Liability for failure of performance.

(a) Liability.--A person receiving funds under an approved project who fails to adequately perform any term of the agreement executed for the project shall be liable for repayment of money provided to the recipient related to adequate performance of the agreement term.

(b) Cause of action.--The commission or conservation district may initiate any legal action in law or equity to compel adequate performance of a project agreement or recoup funds provided under an approved project for which the recipient is liable for repayment under subsection (a).

(c) Redistribution of funds received by the commission.--Any funds repaid to the commission as a result of failure of performance of a project agreement may be provided to the conservation district that was party to that project agreement for use in other project agreements.

Section 12. Effective date.

This act shall take effect in 60 days.