

Regulatory Analysis Form		This space for use by IRRC RECEIVED 2001 JAN 31 PM 3:30 REGULATORY REVIEW COMMISSION	
(1) Agency Department of Agriculture		IRRC Number: # 2012	
(2) I.D. Number (Governor's Office Use) 2-115			
(3) Short Title Sustainable Agriculture Loan and Grant Programs			
(4) PA Code Cite 7 Pa.Code §§ 130c.1. - 130c.44.		(5) Agency Contacts & Telephone Numbers Primary Contact: Lyle B. Forer, Director, Bureau of Plant Industry (717) 772-5203 Secondary Contact: David Bingaman, Chief Conservation and Agriculture Technology (717) 772-5208	
(6) Type of Rulemaking (check one) Proposed Rulemaking Final Order Adopting Regulation X Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? No X Yes: By the Attorney General Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The regulation sets forth eligibility criteria, ranking factors and review procedures with regard to applications for loans and grants under the Sustainable Agriculture Act. The loans and grants will help to promote sustainable agriculture practices within Pennsylvania. Such practices have been demonstrated to enhance profitability while protecting soil, surface and groundwater and other resources on which agriculture and the general public depend.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Sustainable Agriculture Act of December 1994, P.L. 891, No. 129 (3 P.S. §§ 2101-2117) There are no relevant state or federal court decisions concerning this act or this regulation.			

.....**Regulatory Analysis Form**

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is mandated by the Sustainable Agriculture Act (3 P.S. §§ 2101-2117). Specific mandates are set forth at sections 2104(b) (Duties of the Department), 2108-2111 (Loan Programs), 2112-2114 (Grant Programs) and 2115 (Rules and Regulations).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The purpose of the Sustainable Agriculture Act and the loan and grant programs is to educate farmers with regard to the benefits of adopting and implementing sustainable agriculture practices. The implementation of such practices will increase farm profitability, conserve agricultural and other natural resources and benefit the general public and future generations. Sustainable agriculture practices minimize the use of pesticides and fertilizers, encourage crop rotation and the planting of buffer strips between fields and along streams. Such practices reduce the loss of pesticides and nutrients as well as preventing soil erosion.

The result of sustainable agriculture practices is lowered cost to state and local governments in cleanup of polluted surface and groundwater as well as lowering the costs of prevention and enforcement measures. In addition, such practices encourage crop diversity and other ecologically beneficial practices that benefit society.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Nonregulation would merely result in farmers continuing the tried and true agricultural practices of using pesticides and chemical fertilizers to increase productivity and profitability. Increased or even continued use of the pesticides and chemical fertilizers will result in sustained or increased levels of runoff of pesticides and nutrients and contamination of surface and groundwater. This regulation encourages environmentally friendly techniques that ensure the quality of soil and water for future generations and at the same time help to increase farm productivity and profitability.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The agricultural community as well as the general public will benefit from the decreased pesticide and chemical fertilizer use and from the prevention of soil erosion. The implementation of sustainable agriculture practices will increase farm profitability, conserve natural resources and benefit the general public and future generations. The general public will also benefit through reduced costs of clean up and enforcement. There are approximately 50,000 farmers in Pennsylvania. The benefits derived will be proportionate to the number of grants and loans given out. The number of grants and loans distributed will be contingent upon the quality and quantity of applications received and the amount of money allocated for such grants and loans.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The purpose of the programs and the results sought to be obtained have no adverse effect on any entity and in fact produce beneficial effects for the farm community, state and local government and the general public. The Department will incur some additional paperwork and administrative expenses.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The sustainable agriculture loan and grant programs are voluntary programs. Only those who choose to apply and are accepted will be subject to the regulation. The number of persons who apply and are accepted will be contingent on the quality and quantity of applications received and the amount of money allocated for the sustainable agriculture loan and grant programs.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Bureau's expertise and experience regarding Sustainable Agriculture Techniques and Best Management Practices, along with the expertise of various state institutions of higher learning, was used in developing this regulation. The regulation was drafted to effectuate the intent of the Sustainable Agriculture Act and assure the grant and loan programs required by the act are administered fairly and equitably enforced by the Department.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The cost and savings to the regulated community are speculative at this time. It is impossible to estimate the long-term environmental savings which may result from these grant and loan programs. The costs associated with the regulation are paperwork and administrative costs only. The regulation imposes no licensing fees or permit fees on the regulated community and does not require compliance unless a person applies and receives a loan or grant.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation imposes no costs on local governments associated with compliance.

The loan and grant programs are voluntary programs and impose no regulation or restrictions on local governments.

Local governments will benefit from the environmental and ecological effects of sustainable agriculture practices.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

State government (the Department of Agriculture) will incur additional paperwork and administrative costs.

State government will benefit from the environmental and ecological effects of sustainable agriculture practices. Minimizing off farm inputs such as pesticides and fertilizers, utilization of crop rotation techniques, introductions of natural predators and the planting of buffer strips between fields and along streams will result in lowered costs of cleanup of contaminated surface and groundwater and enforcement, increased crop diversity and sustainable profitability of the agricultural community.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

There is no program history to date. The costs and benefits of the loan and grant programs are too speculative to quantify at this time. The Department will measure the benefits derived from sustainable agriculture practices by monitoring loan and grant recipients and the results of their proposals. Recipients of loans and grants are required to submit final reports detailing the results and benefits gained from implementation of the sustainable agriculture practices proposed in their loan or grant application. The benefits the Department hopes to derive from the loan and grant programs are:

1. Increased farm profitability while protecting and preserving our natural resources;
2. Increased crop diversity;
3. Decreased run off of agricultural nutrients and other pollutants;
4. Increased soil and water quality;
5. Continued viability of agricultural resources for future generations;
6. Increased farm profitability;
7. Decreased costs of clean up and enforcement of environmental acts; and
8. More productive soil, and cleaner streams and lakes.

The costs associated with the regulation are paperwork and administrative costs only.

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(20b) Provide the past three-year expenditure history for programs affected by the regulation.

There is no program history to date.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The regulation concerns grant and loan programs and will have no adverse effects. The costs associated with the programs are paperwork and administrative costs and are minimal. The benefits of the grant and loan programs will effect the farm community and the general public. The grant and loan programs will encourage the use of Best Management Practices which will: 1.) Increase farm profitability; (2) Reduce erosion and maintain the quality and productivity of the soil for future generations; and (3) Minimize the use of pesticides and chemical fertilizers thereby reducing run off and contamination and having a beneficial effect on the environment and the general public.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives. The act requires the Department to promulgate a regulation for both the loan and grant programs set forth by the act. This regulation will assure that the proper procedures will be followed by the Agency when evaluating loan and grant proposals and assure recipients of grants and loans will carry out the Best Management Practices delineated in their grant and loan proposals.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered. The act is quite clear with regard to the procedures and ranking factors which the Department must follow. This regulation was drafted as

required by the act and in such a way as to carry out the intent of the act.

(23) Continued

This regulation was promulgated in order to carry out the duties imposed on the Department by the act. The act is intended to benefit the agricultural community and the general public by providing grants and loans, which encourage the implementation of sustainable agriculture practices. Such practices reduce the levels of pesticides and fertilizers applied to agricultural land and encourage other environmentally sound practices. In promulgating the regulation, we researched other grant and loan programs to assure this regulation carried forward the intent of the act and at the same time, did not impose any unnecessary costs.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No. The regulation is consistent with the Federal Food, Agriculture, Conservation and Trade Act of 1990. (Public Law 101-634, 7 U.S.C. § 5813)

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation imposes only minimal paperwork costs on the regulated community. Additionally, it is a voluntary program. The regulation provides criteria for review and execution of grant and loan programs. The grant and loan programs encourage reduced use of pesticides and chemical fertilizers, crop rotation, the planting of buffer strips and other techniques which maintain or increase the quality of soil and water for the farm community, the general public and future generations. Such practices will improve farm productivity and profitability and reduce the cost of clean up and regulatory enforcement thereby giving Pennsylvania a competitive advantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation will not directly impact any other regulation or state agency. However, the application of Sustainable Agriculture and Best Management Practices will produce environmental benefits that will positively impact such regulations as those promulgated under the Clean Streams Law (35 P.S. §§ 691.1 *et seq.*), the Pesticide Control Act (3 P.S. §§ 111.21. *et seq.*) and the Nutrient Management Act (3 P.S. §§ 1701 *et seq.*) This positive impact will be felt by the Department of Environmental Protection. ("DEP")

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. This regulation provides criteria for review and execution of grants and loans to the farm community and non-profit educational institutions. The act clearly delineates the procedures and ranking factors to be followed. This regulation imposes minimal costs on the Department and the

regulated community and is non-controversial in nature.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The Department will be required to review all grant and loan applications. Those applications that are approved must be recorded and the Department must then undertake inspections and periodic reviews to assure the approved applicant is carrying out his or her duties and obligations. The approved applicant will be required to keep and maintain all necessary financial records and other records pertinent to the implementation of the approved proposal. The approved applicant will be required to submit progress reports and a final report.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The focus of the sustainable agriculture grant and loan programs is to educate farmers in the benefits of adopting sustainable agriculture practices and to encourage the use of such practices. The implementation of sustainable agriculture practices will increase farm profitability, conserve agriculture resources and benefit the general public and future generations.

The regulation was developed to carry forward the intent of the act and in a manner consistent with the criteria delineated in the act.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation is behind schedule. The act required the regulation to be in place by February of 1997. The Department hopes to have the regulation approved and implemented by September of 1999. No compliance is required until a grant or loan applicant's proposal has been approved by the Department. There are no licensing or permit requirements under this regulation. Please note that to date no funds have been appropriated for the sustainable agriculture loan or grant programs.

(31) Provide the schedule for continual review of the regulation.

We will track the success of the program by measuring sustainable agriculture practices adopted as a result of grant and loan programs. Additionally, recipients of grants and loans are required to submit final reports detailing the results and benefits gained from implementation of the sustainable agriculture practices proposed in their applications.

The Department will continually review the success of the programs and comments received from the grant and loan recipients and will suggest amendments as needed.

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DEPUTY ATTORNEY GENERAL

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Department of Agriculture

AGENCY

DOCUMENT/FISCAL NOTE NO. 2-115

DATE OF ADOPTION:

BY:

SAMUEL E. HAYES, JR.

TITLE: Secretary of Agriculture

EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY

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BY:

1/23/01

DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(State Responsible Title)

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

FINAL RULEMAKING
Department of Agriculture
7 Pa. Code Chapter 130c
Sustainable Agriculture Loan
and Grant Programs

Title 7 – Agriculture
DEPARTMENT OF AGRICULTURE
[7 PA. CODE CH 130c.]
Sustainable Agriculture Programs

The Department of Agriculture (Department) hereby establishes regulations required or authorized under the act of December 12, 1994, P.L. 891, No. 129, known as the Sustainable Agriculture Act ("Act") (3 P.S. §§ 2101-2117).

Authority

The Department has the power and authority to adopt these regulations. This authority includes:

- (1) General authority to adopt rules and regulations under the Act and upon expiration of the two year period in which the Act can be administered through guidelines, to promulgate, adopt and publish regulations, as necessary for the implementation of the Act as set forth at Section 15 (3 P.S. § 2115) (relating to rules and regulations).
- (2) The general duty to establish a program to promote the practice of sustainable agriculture under Section 4(a) (3 P.S. § 2104(a)) of the Act (relating to establishment of sustainable agriculture programs).
- (3) The specific duties, set forth at Section 4(b)(3) and Section 4(b)(6) (3 P.S. §§ 2104(b)(3) and (6)) of the Act (relating to duties of the department), to distribute funds appropriated by the General Assembly and received from other sources for loan and grant programs and to administer loan and grant programs and issue loans and grants from the funds appropriated by the General Assembly and awarded by the board.
- (4) The duty and authority to establish a sustainable agriculture loan program under Section 8 (3 P.S. § 2108) of the Act (relating to loan program).
- (5) The duty to establish a sustainable agriculture grant program and an alternative crop grant program under Section 12 (3 P.S. § 2112) of the Act (relating to grant programs).

Need for the Regulations

The regulations delineate the objectives of the loan and grant programs and the general conditions for obtaining a sustainable agriculture loan or grant. In addition, the regulations establish submission, processing and review procedures, eligibility and evaluation criteria, notification and record keeping requirements and enforcement mechanisms for the sustainable agriculture loan program, the sustainable agriculture grant program and the alternative crop grant program. These regulations notify the regulated community of the expectations of the Board of Sustainable Agriculture, the review criteria utilized and the requirements for a loan or grant application. In addition, they assure fair and impartial review of all loan and grant applications.

The regulations are specifically required by Section 15 of the Act. This requirement is referenced in this Preamble, under the "Authority" heading.

These regulations and the programs established under them will make money and resources available to farmers who practice sustainable agriculture techniques. Sustainable agriculture emphasizes farm practices which are ecologically beneficial, ensure and improve the quality of the soil and water for future generations and make the best use of on-farm resources thereby eliminating or reducing the need for off-farm inputs, such as fertilizers and pesticides. Such techniques allow for more profitable farming and conserve valuable resources and open space for future generations. Therefore, the regulations should ultimately benefit both the farming community and the general public.

In summary, the Department is satisfied there is a need for the regulations, and that they are otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

Comments

Notice of Proposed Rulemaking was published at 29 *Pennsylvania Bulletin* 1496 (March 20, 1999), and provided for a 30-day public comment period.

Comments were received from the Independent Regulatory Review Commission (IRRC) and the Chesapeake Bay Foundation.

Comment: IRRC suggested changes regarding several definitions in section 130c.2. (relating to definitions). The first suggestion concerned the definition of "Executive Director" and noted that the regulatory definition was inconsistent with the definition set forth at Section 5 of the Act (relating to duties of the executive director of the board) (3 P.S. § 2105). IRRC stated, "Section 5(1) (3 P.S. § 2105(1)) of the Act states that the Executive Director will evaluate loan and grant applications submitted to the board (Board of Sustainable Agriculture)." The definition in the regulation limited the Executive Director to evaluating loan applications only.

Response: The Department agrees with this comment and has implemented the suggested revision in the final-form regulation in new Section 130c.5 (relating to duties of the executive director).

Comment: IRRC suggested that the substantive provisions contained in the regulation's definition of "Executive Director" would more appropriately be placed in a new section, in the substantive portion of the regulation, after Section 130c.4 of the regulation.

Response: The Department agrees that placing the duties of the Executive Director in a substantive portion of the regulation is more appropriate than delineating

those duties in the definitions section of the regulation. The change will add clarity to the regulation. Therefore, the Department has added a new Section 130c.5 (relating to duties of the executive director), and renumbered the subsequent sections to reflect this change.

Comment: IRRC suggested that because the statutory and regulatory definitions of "Nonprofit Educational Institution" and "Sustainable Agriculture" are virtually identical there is no need to repeat or include the entire definition of each phrase in the regulation. IRRC suggested that the regulation should reference the statutory definition.

Response: The Department believes these definitions are important definitions for the regulated community and the interested public. Placing these definitions in the regulation promotes clarity for the regulated community by enhancing the ease of understanding and compliance with the regulation. Requiring the regulated community or the interested public to return to the Act to find the definitions in order to understand the meaning of these two terms is unnecessary. Printing the definitions in the regulation as opposed to referencing the statutory definitions adds clarity to the regulation and is not inconsistent with the statutory provisions.

Comment: The IRRC noted that the Department had included a definition of "Pesticide" in the regulations, but then had used the terms "herbicide" and "insecticide" throughout the substantive provisions of the regulations. In addition, IRRC noted, the terms "herbicide" and "insecticide", not "pesticide" are used in the Act (3 P.S. § 2110(b)(6)). IRRC suggested the term "pesticide" should be deleted or the terms "herbicide" and "insecticide" should be replaced by "pesticide".

Response: The Department agrees the terms "herbicide" and "insecticide" should be replaced by the term "pesticide". As IRRC noted in its comment, the definition of "pesticide" includes herbicide and insecticide. The Department added the definition of "pesticide" to the regulation, because "herbicide" and "insecticide" - while used in the Act (3 P.S. § 2110(b)(6)) - were not defined. The Department felt the addition of the term "pesticide" would enhance the clarity of the regulation. However, the Department had not replaced the terms "herbicide" and "insecticide" in the regulation. We have changed all references to "herbicide" or "insecticide" to "pesticide". In addition, because the definition of "pesticide" includes the terms "defoliant", "desiccant" and "plant regulator" we have added definitions of each of these terms to the regulation.

Comment: IRRC pointed out an error in Section 130c.5 of the regulation (relating to notice of disposition of application). The section contained references to Sections 130.16 and 130.36. The references should have been to sections 130c.16 and 130c.36.

Response: The Department agrees with this comment. The Legislative Reference Bureau caught this typographical error as well and it has been corrected. It should be noted that Section 130c.5 (relating to notice of disposition of application) has been changed to Section 130c.6 (relating to notice of disposition of application). This

change was necessitated by the addition of a new section 130c.5 (relating to duties of the executive director).

Comment: IRRC commented that while Sections 130c.15 (relating to submission of loan applications) and 130c.35 (relating to submission of grant applications) of the regulations require loan and grant applications to be submitted on forms prepared by the Board (Board of Sustainable Agriculture), neither these sections nor the regulation informed applicants where and how to obtain the appropriate forms.

Response: The Department agrees that such information would add clarity to the regulation. The Department has revised Section 130c.15 and Section 130c.35 to include an address and phone number from which forms and information can be obtained.

Comment: IRRC provided two comments with regard to Sections 130c.16 (relating to processing of loan applications) and 130c.36 (relating to processing of grant applications). The first comment concerns the filing deadlines set forth in the above referenced sections. IRRC opined that while Sections 130c.16 and 130c.36 delineated filing deadlines, they failed to reference the 90-day period for Board (Sustainable Agriculture Board) action on applications as prescribed by Section 130c.5 (now Section 130c.6 because of changes referenced above) (relating to notice of disposition of application). IRRC suggested such a reference be included for purposes of clarity. The second comment regarding Sections 130c.16 and 130c.36 was related to assuring proper notice be given to applicants, whose applications were determined to be incomplete or inaccurate by the Executive Director. IRRC suggested the Department add language clarifying that such notice will be in writing to the applicants and inform the applicant of the deficiencies in the application and that the applicant has 30 days to respond to the request for additional information.

Response: With regard to the first comment, the Department agrees that referencing the 90-day period for Board review set forth in Section 130c.5 (now Section 130c.6 because of changes referenced above) (relating to notice of disposition of application), will add clarity to the regulation. The Department has added language to both sections which references Section 130c.5 (now Section 130c.6 because of changes referenced above) (relating to Notice of disposition of application). With regard to the second comment, the Department believes that the previous language was sufficient regarding notice. However, in an attempt to further clarify the notice provision and the actions the Executive Director may take upon determining an application is incomplete or contains inaccurate information, the Department has added language which, states that such notice will be in writing and inform the applicant of the additional data needed and the 30 day time limit for response.

Comment: The Chesapeake Bay Foundation commented that the Sustainable Agriculture Program must have adequate funding to be successful. They suggested that producers cannot afford loan programs and that the Department should provide funding by way of grant programs instead. In addition, the Chesapeake Bay Foundation opined

that, "(R)eliance on a revolving fund makes monies uncertain from year to year and indicates a lack of commitment by the Department."

Response: Section 7 of the Act (3 P.S. § 2107) creates the Sustainable Agriculture Fund ("Fund"). Section 7 states, "(T)he fund shall receive all revenues and appropriations and pay all costs, except administrative expenses, related to the sustainable agriculture program". The Department can only use monies appropriated to and revenues deposited in the Fund to pay for loan and grant programs under the Act. Appropriations to the Fund will be determined by the Legislature, not by the Department. The Department will determine the most appropriate use of Fund monies for sustainable agriculture programs. Regarding the "revolving fund" referred to in the comment, Section 9 of the Act (3 P.S. § 2109) creates a Revolving Loan Account ("Account"). The Account is to be funded by appropriations made by the General Assembly and interest earned on the account and from loan repayments. The Department cannot create or do through regulations that which the Legislature does not give it power to do under the Act. In addition, Section 7 of the Act states that, "(S)ustainable agriculture loans and grants and alternative crop grants shall be made to the extent funds are made available" and it goes on to set forth sources from which funds may be obtained. The Department will work to obtain funding for the Sustainable Agriculture Loan and Grants programs from the appropriate sources.

Fiscal Impact

Commonwealth

The final-form regulation itself will not have a fiscal impact upon the Commonwealth. The Act requires that any monies appropriated to the Fund be used solely for the cost of administering the loan and grants programs. The Department may not use any monies appropriated to the Fund for administrative expenses. The Department has personnel in place to assist in administering the sustainable agriculture grant and alternative crop grant programs and to enforce provisions of the Act. Administration of a loan program under the Act may create a need for additional employees. This need will be driven by the Act and funding provided under the Act, rather than by the final-form regulation.

Political Subdivisions

The final-form regulation will not impose any direct fiscal impact upon political subdivisions.

Private Sector

The final-form regulation will not have any direct fiscal impact on the private sector except for possible positive effects with regard to their fiscal impact on the Commonwealth. The Act and these regulations are intended to have a positive fiscal impact on the Commonwealth, through increased return on investment to the producer/farmer, increased soil and water quality and other ecological benefits, which accrue from reducing or eliminating the need for fertilizers and pesticides.

General Public

The final-form regulation will impose no costs and have no fiscal impact upon the general public. The general public may benefit from the decreased use of pesticides and fertilizers and the increased soil and water quality these regulations seek to promote.

Paperwork Requirements

The final-form regulation will result in increased paperwork requirements of the recipients of sustainable agriculture loans and grants and alternative crop grants. The recipients of the loans and grants will be required to keep detailed records of all sustainable agriculture activities and projects undertaken using the loan or grant moneys. The Department will incur increased paperwork requirements through tracking and recordkeeping requirements and review of applications related to the sustainable agriculture loan program, the sustainable agriculture grant program and the alternative crop grant program.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Lyle Forer, Director, or by telephoning Mr. Forer at (717) 772-5203.

Regulatory Review

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of the Notice of Proposed Rulemaking published at 29 *Pennsylvania Bulletin* 1496 (March 20, 1999) on March 5, 1999 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment. In compliance with § 5(b.1), the Department also provided the Commission and the Committees with copies of all comments received, as well as other documentation.

In preparing this final-form regulation, the Department has considered all comments received from the Commission, the Committees and the public.

This final-form regulation was (decided) approved by the House Agricultural and Rural Affairs Committee on _____, was (decided) approved by the Senate Agriculture and Rural Affairs Committee on _____, and was (decided) approved by the Commission on _____.

Findings

The Department of Agriculture finds the following:

- (1) Public notice of its intention to adopt the regulation encompassed by this Order has been given under §§ 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and their attendant regulations at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments received were considered.
- (3) The modifications that were made to this regulation in response to comments received do not enlarge the purpose of the proposed regulation published at 29 *Pennsylvania Bulletin* 1496 (March 20, 1999).
- (4) The adoption of the regulation in the manner provided in this Order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department of Agriculture, acting under authority of the authorizing statute, orders the following:

- (1) The new regulations of the Department of Agriculture at 7 Pa. Code Chapter 130c. (regarding Sustainable Agriculture Programs) are adopted as set forth in Annex "A" attached hereto.
- (2) The Secretary of Agriculture shall submit this Order and Annex "A" to the Office of General Counsel and to the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Secretary of Agriculture shall certify this Order and Annex "A" and deposit them with the Legislative Reference Bureau, as required by law.
- (4) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

BY THE DEPARTMENT OF AGRICULTURE

Samuel E. Hayes, Jr., Secretary

ANNEX A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130c. SUSTAINABLE AGRICULTURE PROGRAMS

Subch.

A. GENERAL PROVISIONS

B. SUSTAINABLE AGRICULTURE LOAN PROGRAM

**C. SUSTAINABLE AGRICULTURE GRANT PROGRAMS AND
ALTERNATIVE CROP GRANT PROGRAMS**

Subchapter A. GENERAL PROVISIONS

Sec.

130c.1. Objectives.

130c.2. Definitions.

130c.3. Records.

130c.4. Conflict of interest.

130c.5. Duties of the Executive Director.

130c.[5] 6. Notice of disposition of application.

130c.[6] 7. Loan or grant cancellation.

130c.[7] 8. Right of recovery.

130c.[8] 9. Deficits.

§ 130c.1. Objectives.

The purpose of the act is to:

- (1) Establish a program for sustainable agriculture practices and to create the Board.
- (2) Define the powers and duties of the Department and the Board.
- (3) Provide for sustainable agriculture loan and grant programs and an alternative crop grant program.
- (4) Provide for funding.

§ 130c.2. Definitions.

The following words, phrases and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Sustainable Agriculture Act (3 P.S. §§ 2101-2117).

Agricultural activity or farming - The commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products or fruits and other horticultural products.

Alternative crop - Crops not normally grown on an annual or rotational basis in this Commonwealth. The term may include crops used to replenish soil nutrients, crops used for animal or human consumption or crops used to reduce reliance on fuel, agricultural chemicals or synthetic fertilizer.

Applicant - A farm enterprise applying for a loan or grant.

Beneficial insects - Insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial to farming.

Board - The Board of Sustainable Agriculture.

Corporate farm - A corporation formed for the purpose of engaging in agricultural activity or farming which is not a family farm corporation.

Creditworthy - The ability to pay debts as they become due, to offer sufficient security and collateral and having no history of any previous default on loans specified in §130c.14(g) (relating to general conditions).

Defoliant - Any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

Department - The Department of Agriculture of the Commonwealth.

Desiccant – Any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

Executive director - The person appointed by the Secretary to advise the Board.

[The Executive Director's duties include:

- (i) Reviewing, evaluating and submitting loan applications to the Board.
- (ii) Identifying sustainable agriculture practices.
- (iii) Integrating and coordinating sustainable agriculture activities and education.
- (iv) Developing information systems.
- (v) Promoting sustainable agriculture practices.]

Family farm corporation - A corporation formed for the purpose of farming in which the majority of the voting stock is held by and the majority of the stockholders are natural persons or their spouses or other persons related to the natural persons or their spouses and at least one of the majority stockholders is residing on or actively operating or managing the farm and none of the stockholders of which are corporations.

Family farm partnership - A general partnership entered into for the purpose of farming, having no more than three unrelated members and having at least one member residing on or actively operating or managing the farm.

Farm enterprise - A natural person, family farm corporation, family farm partnership engaged in farming or a corporate farm or nonprofit educational institution.

Farmland - Land in this Commonwealth that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products.

Fund - A fund created by section 7 of the act (3 P.S. § 2107) and established by the Department which shall receive all revenues and appropriations, allowed under the act. The Fund shall pay all costs, except administrative expenses, related to the Program. This Fund shall also contain the revolving loan account created by section 9 of the act (3 P.S. § 2109).

Individual - A natural person, meaning a single person as distinguished from a group or class, and as distinguished from a partnership, corporation or association.

Nonprofit educational institution - Any State-owned or State-related college or university in this Commonwealth or any nonprofit organization, association or group in this Commonwealth which:

- (i) Has demonstrated a capacity to conduct agricultural research or education programs.
- (ii) Has experience in research or education in sustainable agricultural practices.
- (iii) Qualifies as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C.A § 501(c)).

Pest - An insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator of the Environmental Protection Agency declares to be a pest under section 25(c)(1) of the Federal , Fungicide and Rodenticide Act of 1947 (7 U.S.C.A. § 136w(1)).

Pesticide – An insecticide or herbicide having the following characteristics:

- (i) A substance or mixture of substances intended for preventing, destroying, repelling or mitigating a pest.
- (ii) A substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

Plant regulator - Any substance or mixture of substances intended, through physiological action, for accelerating or altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant soil amendments. Also, the term “plant regulator” shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.

Program - The Sustainable Agriculture Loan or Grant Program or the Alternative Crop Grant Program.

Project - A specific plan set forth on a loan or grant application submitted under the act and this chapter, describing sustainable agriculture or alternative crop practices to be implemented using loan or grant funds received under that application.

Secretary - The Secretary of Agriculture of the Commonwealth or a designee.

Sustainable agriculture - An integrated system of plant and animal production practices having a site-specific application that will over the long term:

- (i) Satisfy human food and fiber needs.

- (ii) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.
- (iii) Make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls.
- (iv) Sustain the economic viability of farm operations.
- (v) Enhance the quality of life for farmers and society as a whole.

§ 130c.3. Records.

(a) A recipient of grant or loan funds under the act and this chapter shall maintain books, records and other evidence pertinent to expenditures and costs incurred in connection with the sustainable agriculture project to which those funds are applied. The books and records shall be maintained according to generally accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to any loan or grant made under the act shall be retained by the recipient for 3 years following the year in which the loan or grant expires.

(c) The records and documents shall be available for inspection or audit at reasonable times by the Department or its authorized agents.

§ 130c.4. Conflict of interest.

A member of the Board may apply for a sustainable agriculture loan or grant or an alternative crop grant provided all decisions regarding the loan or grant application are subject to sections 3(j) of the Public Official and Employee Ethics Act

(65 Pa.C.S. § 1103(j)) and if the action does not violate the State Adverse Interest Act (71 P.S. §§ 776.1 – 776.9), or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 130c.5. Duties of the Executive Director.

The Executive Director's duties shall include:

(a) *Review and evaluation.* The Executive Director shall review and evaluate loan and grant applications submitted to the Board.

(b) *Research.* The Executive Director shall identify sustainable agriculture practices.

(c) *Integration and coordination.* The Executive Director shall integrate and coordinate sustainable agriculture activities and education.

(d) *Development.* The Executive Secretary shall develop information systems which, integrate and utilize the experience and expertise of farmers, agribusiness and specialists.

(e) *Promotion.* The Executive Secretary shall promote sustainable agriculture practices.

[§ 130c.5.] § 130c.6. Notice of disposition of application.

The Board will provide an applicant written notice of the acceptance or rejection of the application by mailing a notice within 90 days of receipt of the application. If the application is incomplete, the Board will follow the action prescribed by §130c.16 or

§130c.36 (relating to processing of loan applications; and processing of grant applications).

[§ 130c.6.] § 130c.7. Loan or grant cancellation.

A sustainable agriculture loan or grant or an alternative crop grant may be canceled by the Secretary upon a determination that the funds are not being spent or utilized in accordance with the act, the loan or grant agreement or this chapter.

[§ 130c.7.] § 130c.8. Right of recovery.

The Department has the right to make a claim for and receive from the loan or grant recipient monies not expended in accordance with the act, the loan or grant agreement or this chapter. When a loan or grant recipient defaults, the Department has the right to make a claim for and receive from the loan or grant recipient, the principle balance of the loan and interest incurred to date. Payment shall be due within 60 days of the written demand.

[§ 130c.8.] § 130c.9. Deficits.

The Department's financial obligation is limited to the amount of the sustainable agriculture loan or grant or the alternative crop grant. The Department is not responsible for funding cost overruns incurred by loan or grant recipients.

Subchapter B. SUSTAINABLE AGRICULTURE LOAN PROGRAM

Sec.	
130c.11.	Objective.
130c.12.	Funding.
130c.13.	Amount of loan.
130c.14.	General conditions.
130c.15.	Submission of application.
130c.16.	Processing of application.
130c.17.	Applicant eligibility.
130c.18.	Review of a loan application.
130c.19.	Eligible uses.

§ 130c.11. Objective.

This subchapter establishes the requirements and procedures of the Program, under which an applicant may receive a loan to implement farming practices that emphasize sustainable agriculture in this Commonwealth.

§ 130c.12. Funding.

Sustainable agriculture loans shall be made to the extent funds are made available in the revolving loan account. The revolving loan account, created under section 9 of the act (3 P.S. § 2109), shall be used to fund all sustainable agriculture loans. The revolving loan account shall be funded by appropriations made by the General Assembly and interest earned on the account and interest from loan repayment.

§ 130c.13. Amount of loan.

The maximum amount of a loan is \$15,000 for farm enterprises which are not corporate farms and \$25,000 for corporate farms.

§ 130c.14. General conditions.

(a) *Interest rates.* The interest rate on any loan will be calculated using simple interest at the percentage rate equal to the Federal Reserve discount rate at the time the loan was made.

(b) *Term of loan and rate of payment.* The term of the loan may not be greater than the useful life of the project, which shall be defined in the loan agreement. Under no circumstances shall the term of the loan exceed 7 years. Payments shall be made monthly, quarterly, or semiannually, as determined by the Board.

(c) *Security.*

(1) *Requirement.* The Board will secure each loan before distributing the loan proceeds and its lien position may not be less than a second position as to liens on real estate and equipment connected with the farm operation. A loan shall be fully secured and no part of the loan shall be unsecured.

(2) *Valuation of collateral.* Real estate security shall be valued on the basis of resale value, taking into account any liens or encumbrances on the land.

(3) *Additional security.* The Board may require other and additional security as it deems just and reasonable, including personal liability promissory notes with confessions of judgment, judgment notes, additional collateral, insurance and guarantees.

(d) *Sale of real or personal property.* If the recipient sells real or personal property connected with the project which is subject to a lien in favor of the Department or Board the principal balance of the loan and interest incurred to date shall immediately become due and payable.

(e) *Verification.* Within 3 months of the project completion date specified in the loan agreement, the recipient shall submit to the Department a final report which includes written receipts, records and any other pertinent documentation evidencing the total amount of the costs incurred and expenditures associated with the project. At the same time, the recipient shall also submit a narrative report describing the effectiveness of the project, the results obtained, the experience gained and the personal knowledge acquired.

(f) *Failure to Verify.* If the required receipts, records and documentation are not submitted within the 3-month period or a portion of loan proceeds are unaccounted for, the Secretary may demand the recipient repay the entire principal balance of the loan or a lesser amount and interest incurred to date. Payment shall be due within 60 days of the written demand.

(g) *Loan agreement.* A recipient shall sign a loan agreement setting forth the term and amount of the loan, a repayment schedule and other terms or conditions as the Department may reasonably require.

(h) *Previous default.* A loan will not be made under this chapter to an applicant who has previously defaulted on a loan made, guaranteed or insured by the Commonwealth, the Federal Government, or by the government of another state.

(i) *Default.* A recipient who fails to abide by the terms of the act, the loan agreement or the rules set forth in this chapter shall be in default. Additionally, a loan shall be declared in default if the loan recipient fails to make the required payment within 30 days of the due date. When a loan recipient defaults the Department may seek recovery of the loan funds as delineated in §130c.8 (relating to right of recovery).

A default may be waived by the Secretary, after consultation with the Board, in the event of a physical disability suffered by the recipient or other extenuating circumstances.

§ 130c.15. Submission of application.

An applicant desiring to be considered for a loan under this chapter shall submit to the Board, on a form prepared by the Board, an application for a loan. The completed application shall contain all information requested by the Board. Applications must be postmarked by July 31 of each year. Loan applications may be obtained from:

Pennsylvania Department of Agriculture
Bureau of Plant Industry
2301 North Cameron Street
Harrisburg, PA 17110-9408
Telephone number: (717) 787-4843

§ 130c.16. Processing of applications.

(a) *Executive Director.* Upon receipt of an application for a sustainable agriculture loan and any required supporting documentation, the Executive Director will review this information for completeness and accuracy and submit it to the Board. As set forth at §130c.6 of this chapter, the Board shall have 90 days to review and take action on an application. If the Executive Director determines the application is incomplete or inaccurate, final processing of the application may be discontinued and the Board will send a letter of rejection to the applicant or additional data may be requested. If additional data is requested, the Executive Director will notify the applicant of the additional data needed and the 30-day time period for response. Processing of the application will cease and the 90-day review period, set forth in §130c.6, will be tolled during the 30-day response period until the applicant supplies the requested data.

If additional data has been requested, the Executive Director may terminate the processing of the application when the additional data is not supplied within 30 days of a written request.

(b) *Board.* The Board will review all complete applications and supporting documentation and shall have the power to accept, accept with special conditions or reject applications and issue loans in accordance with the general considerations and eligibility criteria of the act and this chapter.

§ 130c.17. Applicant eligibility.

(a) *Individuals.* To be eligible for a loan under this chapter, the applicant, if an individual, shall be:

(1) A resident of this Commonwealth or show sufficient evidence that he or she intends to become a resident.

(2) An active resident operator or resident manager of the farm.

(3) Sufficiently educated, trained or experienced to carry out the project and must certify he or she will participate in the project for the duration of the loan period.

(4) Able to prove and document that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(5) Able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(6) Creditworthy.

(b) *Family farm partnership.* To be eligible for a loan under this chapter, if a family farm partnership, the applicant's principal operating or managing partners shall:

(1) Be residents of this Commonwealth or demonstrate they intend to become residents.

(2) Have no more than three unrelated members.

(3) Have at least one member residing on or actively operating or managing the farm.

(4) Demonstrate the applicant or the principal operating or managing partners thereof have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and must certify he or they will participate in the project for the duration of the loan period.

(5) Be able to prove and document that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(6) Be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(7) Be creditworthy.

(c) *Family farm corporation.* To be eligible for a loan under this chapter, the applicant, if a family farm corporation, shall meet the following requirements:

(1) The family farm corporation shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the family farm corporation shall be residents of this Commonwealth or show sufficient evidence that they intend to become residents.

(3) At least one of the majority stockholders of the family farm corporation shall reside on or actively operate or manage the farm.

(4) None of the shareholders of the family farm corporation may be corporations.

(5) The applicant or the principal operating or managing members or shareholders of the family farm corporation must have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and must guarantee he or they will participate in the project for the duration of the loan period.

(6) The family farm corporation shall demonstrate that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(7) The family farm corporation shall be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(8) The family farm corporation shall be creditworthy.

(d) *Corporate farm.* To be eligible for a loan under this chapter, the applicant, if a corporate farm, shall meet the following requirements:

(1) The corporate farm shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the corporate farm must have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and must guarantee the corporation will participate in the project for the duration of the loan agreement.

(3) The corporate farm shall demonstrate that the farm enterprise owns or leases farmland in this Commonwealth.

(4) The corporate farm shall be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(5) The corporate farm shall be creditworthy.

(e) *Non-profit educational institution.* A non-profit educational institution is not eligible for a loan.

§ 130c.18. Review of a loan application.

(a) *Evaluation.* The Board will evaluate the application based on the applicant's eligibility as set out in §130c.17. (relating to applicant eligibility).

(b) *Ranking.* No single factor will be paramount. In rendering a decision the Board will rank the application based on the following criteria:

(1) *Financial responsibility.* Financial responsibility reflecting the ability of the applicant to meet and satisfy all debt service as it becomes due and payable, continue farm operations and protect the Department against undue risk.

The applicant's cash flow history, total assets controlled, equity owned, contingent liabilities and history of earnings to date are significant measures of financial responsibility.

(2) *Collateral offered on available security.* The requirement of collateral and collateral taken shall reasonably protect the Department, provide the necessary control of equity and repayment and leave the applicant in a position to reasonably manage the farm operation. The applicant's ability to give the Department a first position in terms of a lien on collateral or to share a first position, will be given great weight.

(3) *Repayment capacity.* The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(4) *Tax obligations.* The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(5) *Projected use.* The manner in which loan proceeds will be utilized in furthering sustainable agriculture in this Commonwealth. This encompasses the goals of the project, its impact on agriculture, the environment and society, its ability to increase farm profitability and productivity, and the potential for success of the project.

(6) *Capital needs (amount of the loan).* The Board will look at the capital needs of the applicant in light of available funds.

(7) *Farming practices.* The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers or pesticides, or otherwise promote sustainable agriculture. These practices are further explained and defined in §130c.19. (relating to eligible uses).

(c) *Discretion.* The Board may exercise its judgment in reviewing applications and in determining the amount of each loan so that, where possible, the widest audience becomes acquainted with the principles of sustainable agriculture. This discretion may be exercised to assure loan funds are distributed to the maximum number of applicants and dispersed throughout the Commonwealth.

§ 130c.19. Eligible uses.

(a) *Loan proceeds.* Proceeds from a loan made under this chapter shall be used by the loan recipient solely for eligible sustainable agriculture practices. Sustainable agriculture practices include, but are not limited to, agricultural practices which:

- (1) Are ecologically beneficial.
- (2) Improve and ensure the soil and water quality for future generations.
- (3) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.
- (4) Make the most efficient use of nonrenewable resources.
- (5) Integrate natural biological cycles and controls, such as planting cover crops to defend against insects and weeds, using mechanical tillage to control

weeds and relying on natural systems, such as biological controls and natural predators.

(6) Ensure the optimum and environmentally compatible use of or eliminate the need for the purchase of off-farm inputs such as chemical or synthetic fertilizers and pesticides.

(7) Make the best use of on-farm labor and resources, such as using animal and plant manure to enrich soil.

(8) Sustain the economic viability of farm operations, by implementing practices which lower production costs.

(9) Enhance the quality of life for farmers and society.

(10) Satisfy human food and fiber needs.

(11) Emphasize planting a diverse array of crops and the production of alternative crops.

(b) *Ineligible use of proceeds*. Loan proceeds may not be used for any of the following purposes:

(1) To refinance a portion of the total project cost or any other existing loans or debts.

(2) To finance, fund or to use in a project outside the geographic boundaries of this Commonwealth.

(3) To purchase off-farm inputs, such as chemical or synthetic fertilizers and pesticides.

(4) To fund any educational or promotional program.

**Subchapter C. SUSTAINABLE AGRICULTURE
GRANT PROGRAMS AND ALTERNATIVE CROP GRANT PROGRAMS**

Sec.	
130c.31.	Objectives.
130c.32.	Funding.
130c.33.	Amount of grant.
130c.34.	General conditions.
130c.35.	Submission of application.
130c.36.	Processing of application.
130c.37.	Applicant eligibility.
130c.38.	Review of a grant application.
130c.39.	Eligible uses.

§ 130c.31. Objectives.

This subchapter establishes the requirements and procedures of the Program and the Alternative Crop Grant Program, under which an applicant may receive grants that enable it to implement practices and develop programs which emphasize sustainable agriculture and the use of alternative crops to promote sustainable agriculture in this Commonwealth.

§ 130c.32. Funding.

Sustainable agriculture grants and alternative crop grants will be made to the extent funds are made available. The revenues and appropriations will be deposited in the Fund. All costs, except administrative expenses, related to the sustainable agriculture program will be paid from the Fund.

§ 130c.33. Amount of grant.

Grants may not exceed \$25,000 except as provided in this subchapter. An additional amount of up to \$25,000 may be granted if the applicant matches that additional amount dollar for dollar so that a single grant may not exceed \$50,000 in one calendar year.

§ 130c.34. General conditions.

(a) *Grant agreement.* The applicant shall sign a grant agreement setting forth the term and amount of the grant and other terms or conditions as the Department may reasonably require.

(b) *Verification.* Within 3 months of the project completion date specified in the grant agreement, the applicant shall submit to the Department a final report which includes written receipts, records and any other pertinent documentation evidencing the total amount of the costs incurred and expenditures associated with the project. At the same time, the applicant shall also submit a narrative report describing the effectiveness of the project, the results obtained, the experience gained and the personal knowledge acquired.

(c) *Failure to Verify.* If the required receipts, records and documentation are not submitted within the 3-month period or a portion of grant proceeds are unaccounted for, the Secretary may demand the applicant repay the entire principal balance of the grant or a lesser amount and interest incurred to date. The interest rate will be calculated using simple interest at the percentage rate equal to the Federal Reserve discount rate at the time the grant was made. Payment shall be due within 60 days of such written demand.

(d) *Default.* A recipient who fails to abide by the terms of the act, the grant agreement or this chapter shall be in default. When a grant recipient defaults the Department may seek recovery of the grant funds as delineated in §130c.8. (relating to right of recovery). A default may be waived by the Secretary, after consultation with the Board, in the event of a physical disability suffered by the recipient or other extenuating circumstances.

§ 130c.35. Submission of application.

(a) *Obtaining an application/deadline.* An applicant desiring to be considered for a grant under this chapter shall submit to the Board, on a form prepared by the Board, an application for a grant. The completed application shall contain all information requested by the Board. Applications must be postmarked by July 31 of each year. Grant applications may be obtained from:

Pennsylvania Department of Agriculture
Bureau of Plant Industry
2301 North Cameron Street
Harrisburg, PA 17110-9408
Telephone number: (717) 787-4843

(b) *Limitations.* An applicant may submit applications, in the same year, under both the sustainable agriculture grant program and the alternative crop grant program. An applicant will not be awarded more than one grant in each calendar year and an applicant already possessing a grant will not be eligible to apply for any other grant under this chapter until the applicant's current grant is completed and the proper verification has been provided to the Board.

§ 130c.36. Processing of applications.

(a) *The Executive Director.* Upon receipt of an application for a sustainable agriculture grant or alternative crop grant and the required supporting documentation, the Executive Director will review this information for completeness and accuracy and submit it to the Board. As set forth at §130c.6 of this chapter, the Board shall have 90 days to review and take action on an application. If the Executive Director determines the application is incomplete or inaccurate, final processing of the application may be discontinued and the Board will send a letter of rejection to the applicant or additional data may be requested. If additional data is requested, the Executive Director will notify the applicant of the additional data needed and the 30-day time period for response. Processing of the application will cease and the 90-day review period, set forth in §130c.6, will be tolled during the 30-day response period until the applicant supplies the requested data. If additional data has been requested, the Executive Director may terminate the processing of the application when the additional data is not supplied within 30 days of a written request.

(b) *The Board.* The Board will review all complete applications and supporting documentation and shall have the power to accept, accept with special conditions or reject applications and issue grants in accordance with the general considerations and eligibility criteria of the act and this chapter.

§ 130c.37. Applicant Eligibility.

(a) *Individuals.* To be eligible for a grant under this chapter, the applicant, if an individual, shall be:

(1) A resident of this Commonwealth or show sufficient evidence that he intends to become a resident.

(2) An active resident operator or resident manager of the farm.

(3) Sufficiently educated, trained or experienced to carry out the sustainable agriculture or alternative crop project proposed in the grant application and must guarantee he or she will participate in the project for the duration of the grant period.

(4) Able to prove and document that the farmland or farm enterprise for which the grant is acquired is located in this Commonwealth.

(5) Able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(b) *Family farm partnership.* To be eligible for a grant under this chapter, the applicant, if a family farm partnership, the applicant's principle operating or managing partners shall:

(1) Be residents of this Commonwealth or demonstrate they intend to become residents.

(2) Have no more than three unrelated members.

(3) Have at least one member residing on or actively operating or managing the farm.

(4) Demonstrate the applicant or the principal operating or managing partners thereof have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee he or they will participate in the project for the duration of the grant period.

(5) Be able to prove and document that the farmland or farm enterprise for which the grant is acquired is located in this Commonwealth.

(6) Be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(c) *Family farm corporation.* To be eligible for a grant under this chapter, the applicant, if a family farm corporation, shall meet the following requirements:

(1) The family farm corporation shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the family farm corporation shall be residents of this Commonwealth or show sufficient evidence that they intend to become residents.

(3) At least one of the majority stockholders of the family farm corporation shall reside on or actively operate or manage the farm.

(4) None of the shareholders of the family farm corporation may be corporations.

(5) The applicant or the principal operating or managing members or shareholders of the family farm corporation shall have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee the family farm corporation will participate in the project for the duration of the grant period.

(6) The family farm corporation shall demonstrate that the farmland or farm enterprise for which the grant is acquired, is located in this Commonwealth.

(7) The family farm corporation shall be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(d) *Corporate farm.* To be eligible for a grant under this chapter, the applicant, if a corporate farm, shall meet the following requirements:

(1) The corporate farm shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the corporate farm shall have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee the corporation will participate in the project for the duration of the grant agreement.

(3) The corporate farm shall demonstrate that the farm enterprise owns or leases farmland in this Commonwealth.

(4) The corporate farm shall be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(e) *Non-profit educational institution.* To be eligible for a grant under this chapter, the applicant, if a non-profit educational institution, shall:

(1) Qualify as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)).

(2) Be a State-owned or State-related college or university in this Commonwealth or any nonprofit organization, association or group in this Commonwealth.

(3) Have experience in research or education in sustainable agriculture practices.

(4) Have demonstrated a capacity to conduct agricultural research or education programs.

§ 130c.38. Review of a grant application.

(a) *Evaluation.* The Board will evaluate the application based on the applicant's eligibility as set out in §130c.37 (relating to applicant eligibility).

(b) *Ranking.* No single factor will be paramount. In rendering a decision the Board will rank the application based on the following criteria:

(1) *Financial responsibility.* Financial responsibility reflecting the ability of the applicant to meet and satisfy all debt service as it becomes due and payable, continue farm operations and protect the Department against undue risk. The applicant's cash flow history, total assets controlled, equity owned, contingent liabilities and history of earnings to date are significant measures of financial responsibility.

(2) [*Repayment capacity*]*Applicant background.* The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(3) *Tax obligations.* The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(4) *Projected use.* The manner in which grant proceeds will be utilized in furthering sustainable agriculture in this Commonwealth. This encompasses the goals of the project, its impact on agriculture, the environment and society, its ability to increase farm profitability and productivity, and the projects potential for success.

(5) *Capital needs (amount of the grant).* The Board will look at the capital needs of the applicant in light of available funds.

(6) *Environment.* The environmental benefit.

(7) *Profitability.* The potential impact on farm profitability.

(8) *Technology.* The applicability of the techniques or technology to other farm enterprises.

(9) *Effectiveness.* The effectiveness of the project as a demonstration, where applicable.

(10) *Farming practices.* The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers or pesticides, or otherwise promote sustainable agriculture. These practices are further explained and defined in §130c.39.

(relating to eligible uses).

(c) *Discretion.* The Board may exercise its judgment in reviewing applications and in determining the amount of each grant so that, when possible, the widest audience becomes acquainted with the principles of sustainable agriculture. This discretion may be exercised to assure grant funds are distributed to the maximum number of applicants and dispersed throughout the Commonwealth.

§ 130c.39. Eligible uses.

(a) *Grant Proceeds.* Proceeds from a grant made under this chapter shall be used by the grant recipient for the practice or promotion of sustainable agriculture or for research or educational programs pertaining to the development of sustainable agriculture, or to adopt practices that emphasize the use of alternative crops. Sustainable agriculture practices include, but are not limited to, agricultural practices which:

- (1) Are ecologically beneficial.
- (2) Improve and ensure the soil and water quality for future generations.

- (3) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.
- (4) Make the most efficient use of nonrenewable resources.
- (5) Integrate natural biological cycles and controls, such as planting cover crops to defend against insects and weeds, using mechanical tillage to control weeds and relying on natural systems, such as biological controls and natural predators.
- (6) Ensure the optimum and environmentally compatible use of or eliminate the need for the purchase of off-farm inputs such as chemical or synthetic fertilizers and pesticides.
- (7) Make the best use of on-farm labor and resources, such as using animal and plant manure to enrich soil.
- (8) Sustain the economic viability of farm operations, by implementing practices which lower production costs.
- (9) Enhance the quality of life for farmers and society.
- (10) Satisfy human food and fiber needs.
- (11) Emphasize planting a diverse array of crops and the production of alternative crops.
- (12) Identify agricultural practices that maintain productivity and minimize environmental and farmland degradation;
- (13) Develop, integrate and coordinate field experiments and on-farm research and educational efforts related to the practice of sustainable agriculture.

(14) Develop, integrate and coordinate new techniques and technologies which advance the field of sustainable agriculture.

(b) *Ineligible use of grant proceeds.* Grant proceeds may not be used for any of the following purposes:

(1) To refinance a portion of the total project cost or any other existing loan or debt.

(2) To finance, fund or to use in a project outside the geographic boundaries of this Commonwealth.

(3) To purchase off-farm inputs, such as chemical or synthetic fertilizers and pesticides.

(4) To fund any educational or promotional program which is not for the sole purpose of advancing the practice of sustainable agriculture.

PROPOSED RULEMAKING (2115)

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130d]

Nutrient Management Education Grant Program

The Department of Agriculture hereby withdraws the notice of proposed rulemaking for the Nutrient Management Education Grant Program (NMEGP), which was published at 28 Pa.B. 4923 (October 3, 1998).

Further information is available by contacting Karl Brown, Executive Secretary, State Conservation Commission at (717) 787-8821.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 99-452. Filed for public inspection March 19, 1999, 9:00 a.m.]

[7 PA. CODE CH. 130c]

Sustainable Agriculture Programs

The Department of Agriculture (Department), under the specific authority conferred by section 15(1) of the Sustainable Agriculture Act (act) (3 P.S. §§ 2101—2117), proposes to establish Chapter 130c to read as set forth in Annex A. Section 4(a) of the act (3 P.S. § 2104(a)) directs the Department to establish a program to promote sustainable agriculture. Sections 4(b), 8 and 12 (3 P.S. §§ 2104(b), 2108 and 2112) of the act delineate the duties of the Department and direct the Department to establish loan programs and grant programs to encourage the practice of sustainable agriculture.

The proposed regulations will delineate the objectives of the loan and grant programs and the general conditions for obtaining a sustainable agriculture loan or grant. In addition, the proposed regulations will establish submission, processing and review procedures, eligibility and evaluation criteria, notification and recordkeeping requirements and enforcement mechanisms for the sustainable agriculture loan program, the sustainable agriculture grant program and the alternative crop grant program. Sustainable agriculture emphasizes farm practices which are ecologically beneficial, ensure and improve the quality of the soil and water for future generations and make the best use of on-farm resources thereby eliminating or reducing the need for off-farm inputs, such as fertilizers and pesticides. The loan and grant programs are intended to promote and encourage the use and development of sustainable agriculture practices.

The major features of the proposed regulations are summarized as follows:

Summary of Major Features

Subchapter A. General Provisions

Proposed § 130c.1. (relating to objectives) sets forth the overall objectives and purpose of the sustainable agriculture act.

Proposed § 130c.2. (relating to definitions) sets forth the definitions of proposed words and terms used in this chapter.

Proposed § 130c.3. (relating to records) establishes the proposed recordkeeping requirements for the recipients of sustainable agriculture loans or grants.

Proposed § 130c.4. (relating to conflict of interest) allows members of the Board to apply for sustainable agriculture loans or grants or alternative crop grants, provided they meet specified criteria.

Proposed § 130c.5. (relating to notice of disposition of application) establishes the time period in which the Board will notify an applicant of the acceptance or rejection of the application.

Proposed § 130c.6. (relating to loan or grant cancellation) will allow the Secretary to cancel a sustainable agriculture loan or grant or an alternative crop grant when a determination is made that the funds are not being used properly.

Proposed § 130c.7. (relating to right of recovery) establishes the Department's right to recover, from a sustainable agriculture loan or grant recipient or an alternative crop grant recipient, moneys not expended in accordance with the act, the loan or grant agreement or this proposed chapter.

Proposed § 130c.8. (relating to deficits) limits the Department's financial obligation to the amount of the sustainable agriculture loan or grant or the alternative crop grant.

Subchapter B. Sustainable Agriculture Loan Program

Proposed § 130c.11. (relating to objective) sets forth the proposed objectives of this subchapter, which are to establish the procedures and requirements of the sustainable agriculture loan program.

Proposed § 130c.12. (relating to funding) sets forth the requirement of availability of funding, delineates the sources from which funding for the sustainable agriculture loan program may be obtained and establishes the requirement that all funds pertaining to the sustainable agriculture loan program must be deposited into the revolving loan account.

Proposed § 130c.13. (relating to amount of loan) delineates the maximum loan amounts allowed under the sustainable agriculture loan program.

Proposed § 130c.14. (relating to general conditions) establishes the interest rate to be charged on sustainable agriculture loans and delineates the maximum term of a loan and the payment plans available. This section also contains the sustainable agriculture loan agreement, security, default and verification requirements and establishes the Department's right to recall the entire principal balance of a sustainable agriculture loan plus interest due.

Proposed § 130c.15. (relating to submission of application) sets forth the sustainable agriculture loan application process, including the deadline for submission of loan applications.

Proposed § 130c.16. (relating to processing of applications) establishes the procedure which the Department will follow when processing a sustainable agriculture loan application and delineates the duties of the executive director and the Board regarding the processing of sustainable agriculture loan applications.

Proposed § 130c.17. (relating to applicant eligibility) establishes the criteria which individuals, family farm

partnerships, family farm corporations and corporate farms must meet to be considered for a loan under the sustainable agriculture loan program.

Proposed § 130c.18. (relating to review of a loan application) sets forth the criteria which the Board will use when reviewing and evaluating sustainable agriculture loan applications.

Proposed § 130c.19. (relating to eligible uses) delineates the agricultural practices for which sustainable agriculture loan proceeds may and may not be used.

Subchapter C. Sustainable Agriculture Grant Programs and Alternative Crop Grant Programs

Proposed § 130c.31. (relating to objectives) sets forth the proposed objectives of this subchapter, which are to establish the procedures and requirements of the sustainable agriculture grant program and the alternative crop grant program.

Proposed § 130c.32. (relating to funding) sets forth the requirement of availability of funding and delineates the sources from which funding for the sustainable agriculture grant program and the alternative crop grant program may be obtained.

Proposed § 130c.33. (relating to amount of grant) delineates the maximum dollar value of any grant which can be awarded under the sustainable agriculture grant program or alternative crop grant program.

Proposed § 130c.34. (relating to general conditions) regarding the sustainable agriculture grant program and the alternative crop grant program discusses the requirements of a grant agreement and sets forth default and verification conditions and requirements.

Proposed § 130c.35. (relating to submission of application) sets forth the application process for the sustainable agriculture grant program and alternative crop grant program, including the deadline for submission of grant applications and limitations.

Proposed § 130c.36. (relating to processing of applications) establishes the procedure which the Department will follow when processing a sustainable agriculture grant program application or an alternative crops grant program application and delineates the duties of the executive director and the Board regarding the processing of the grant applications.

Proposed § 130c.37. (relating to applicant eligibility) establishes the criteria which individuals, family farm partnerships, family farm corporations, corporate farms and nonprofit educational institutions must meet to be considered for a grant under the sustainable agriculture grant program or the alternative crop grant program.

Proposed § 130c.38. (relating to review of a grant application) sets forth the criteria which the Board will use when reviewing and evaluating sustainable agriculture grant applications and alternative crop grant applications.

Proposed § 130c.39. (relating to eligible uses) delineates the agricultural practices for which sustainable agriculture grant and alternative crop grant proceeds may and may not be used.

Fiscal Impact

Commonwealth

The proposed regulations do not create any fiscal impact or impose any costs on the Commonwealth, which are not already contained in the act itself. The act and

these proposed regulations are intended to have a positive fiscal impact on the Commonwealth, through increased return on investment to the producer/farmer, increased soil and water quality and other ecological benefits which accrue from reducing or eliminating the need for fertilizers and pesticides.

Political Subdivisions

The proposed regulations will not have any direct fiscal impact on political subdivisions.

Private Sector

The proposed regulations will not have any direct fiscal impact on the private sector except for the possible positive effects discussed with regard to their fiscal impact on the Commonwealth.

General Public

The proposed regulations will not have any direct fiscal impact on the general public, although the general public may benefit from the decreased use of pesticides and fertilizers and the increased soil and water quality these proposed regulations seek to promote.

Paperwork Requirements

These proposed regulations will result in increased paperwork requirements of the recipients of sustainable agriculture loans and grants and alternative crop grants. The recipients of the loans and grants will be required to keep detailed records of all sustainable agriculture activities and projects undertaken using the loan or grant moneys. The Department will incur increased paperwork requirements through tracking and recordkeeping requirements and review of applications related to the sustainable agriculture loan program, the sustainable agriculture grant program and the alternative crop grant program.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 5, 1999, the Department submitted a copy of these proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees. In addition to submitting the proposed regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1 "Improving Government Regulations." A copy of this material is available to the public upon request. If IRRC has an objection to any portion of the proposed regulations, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Contact Person

Interested persons are invited to submit written comments regarding the proposed regulations within 30 days following publication in the *Pennsylvania Bulletin*. Comments are to be submitted to Lyle Forer, Director, Bureau of Plant Industry, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-5203.

Effective Date

The proposed regulations will become effective upon final adoption.

SAMUEL E. HAYES,
Secretary

Fiscal Note: 2-115. No fiscal impact; (8) recommends adoption. Grant moneys could come from a line item specifically appropriated in the budget, farmland preservation, United States Department of Agriculture and programs from private industry.

Annex A**TITLE 7. AGRICULTURE****PART V. BUREAU OF PLANT INDUSTRY****CHAPTER 130c. SUSTAINABLE AGRICULTURE PROGRAMS****Subch.****A. GENERAL PROVISIONS****B. SUSTAINABLE AGRICULTURE LOAN PROGRAM****C. SUSTAINABLE AGRICULTURE GRANT PROGRAMS AND ALTERNATIVE CROP GRANT PROGRAMS****Subchapter A. GENERAL PROVISIONS****Sec.**

- 130c.1. Objectives.
- 130c.2. Definitions.
- 130c.3. Records.
- 130c.4. Conflict of interest.
- 130c.5. Notice of disposition of application.
- 130c.6. Loan or grant cancellation.
- 130c.7. Right of recovery.
- 130c.8. Deficits.

§ 130c.1. Objectives.

The purpose of the act is to:

- (1) Establish a program for sustainable agriculture practices and to create the Board.
- (2) Define the powers and duties of the Department and the Board.
- (3) Provide for sustainable agriculture loan and grant programs and an alternative crop grant program.
- (4) Provide for funding.

§ 130c.2. Definitions.

The following words, phrases and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Sustainable Agriculture Act (3 P. S. §§ 2101—2117)

Agricultural activity or farming—The commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products or fruits and other horticultural products.

Alternative crop—Crops not normally grown on an annual or rotational basis in this Commonwealth. The term may include crops used to replenish soil nutrients, crops used for animal or human consumption or crops used to reduce reliance on fuel, agricultural chemicals or synthetic fertilizer.

Applicant—A farm enterprise applying for a loan or grant.

Beneficial insects—Insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial to farming.

Board—The Board of Sustainable Agriculture.

Corporate farm—A corporation formed for the purpose of engaging in agricultural activity or farming which is not a family farm corporation.

Creditworthy—The ability to pay debts as they become due, to offer sufficient security and collateral and having no history of any previous default on loans specified in § 130c.14(g) (relating to general conditions).

Department—The Department of Agriculture of the Commonwealth.

Executive Director—The person appointed by the Secretary to advise the Board. The Executive Director's duties include:

- (i) Reviewing, evaluating and submitting loan applications to the Board.
- (ii) Identifying sustainable agriculture practices.
- (iii) Integrating and coordinating sustainable agriculture activities and education.
- (iv) Developing information systems.
- (v) Promoting sustainable agriculture practices.

Family farm corporation—A corporation formed for the purpose of farming in which the majority of the voting stock is held by and the majority of the stockholders are natural persons or their spouses or other persons related to the natural persons or their spouses and at least one of the majority stockholders is residing on or actively operating or managing the farm and none of the stockholders of which are corporations.

Family farm partnership—A general partnership entered into for the purpose of farming, having no more than three unrelated members and having at least one member residing on or actively operating or managing the farm.

Farm enterprise—A natural person, family farm corporation, family farm partnership engaged in farming or a corporate farm or nonprofit educational institution.

Farmland—Land in this Commonwealth that is capable of supporting the commercial production of agricultural crops, livestock or livestock products, poultry products, milk or dairy products, fruit or other horticultural products.

Fund—Sustainable Agriculture Fund—A fund created by section 7 of the act (3 P. S. § 2107) and established by the Department which shall receive all revenues and appropriations, allowed under the act. The Fund shall pay all costs, except administrative expenses, related to the Program. This Fund shall also contain the revolving loan account created by section 9 of the act (3 P. S. § 2109).

Individual—A natural person, meaning a single person as distinguished from a group or class, and as distinguished from a partnership, corporation or association.

Nonprofit educational institution—A State-owned or State-related college or university in this Commonwealth or any nonprofit organization, association or group in this Commonwealth which:

- (i) Has demonstrated a capacity to conduct agricultural research or education programs.
- (ii) Has experience in research or education in sustainable agricultural practices.
- (iii) Qualifies as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)).

Pest—An insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the Administrator of the Environmental Protection Agency declares to be a pest under section 25(c)(1) of the Federal Insecticide, Fungicide and Rodenticide Act of 1947 (7 U.S.C.A. § 136w(1)).

Pesticide—

(i) A substance or mixture of substances intended for preventing, destroying, repelling or mitigating a pest.

(ii) A substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

Program—The Sustainable Agriculture Loan Program.

Project—A specific plan set forth on a loan or grant application submitted under the act and this chapter, describing sustainable agriculture or alternative crop practices to be implemented using loan or grant funds received under that application.

Secretary—The Secretary of Agriculture of the Commonwealth or a designee.

Sustainable agriculture—An integrated system of plant and animal production practices having a site-specific application that will over the long term:

- (i) Satisfy human food and fiber needs.
- (ii) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.
- (iii) Make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls.

(iv) Sustain the economic viability of farm operations.

(v) Enhance the quality of life for farmers and society as a whole.

§ 130c.3. Records.

(a) A recipient of grant or loan funds under the act and this chapter shall maintain books, records and other evidence pertinent to expenditures and costs incurred in connection with the sustainable agriculture project to which those funds are applied. The books and records shall be maintained according to generally accepted accounting principles.

(b) Financial records, supporting documents, statistical records and other records pertaining to any loan or grant made under the act shall be retained by the recipient for 3 years following the year in which the loan or grant expires.

(c) The records and documents shall be available for inspection or audit at reasonable times by the Department or its authorized agents.

§ 130c.4. Conflict of interest.

A member of the Board may apply for a sustainable agriculture loan or grant or an alternative crop grant provided all decisions regarding the loan or grant application are subject to section 3(j) of the Public Official and Employee Ethics Act (65 Pa.C.S. § 1103(j)) and if the action does not violate the State Adverse Interest Act (71 P.S. §§ 776.1—776.8), or 4 Pa. Code Chapter 7, Subchapter K (relating to code of conduct for appointed officials and State employees).

§ 130c.5. Notice of disposition of application.

The Board will provide an applicant written notice of the acceptance or rejection of the application by mailing a notice within 90 days of receipt of the application. If the application is incomplete, the Board will follow the action prescribed by § 130.16 or § 130.36 (relating to processing of loan applications; and processing of grant applications).

§ 130c.6. Loan or grant cancellation.

A sustainable agriculture loan or grant or an alternative crop grant may be canceled by the Secretary upon a determination that the funds are not being spent or utilized in accordance with the act, the loan or grant agreement or this chapter.

§ 130c.7. Right of recovery.

The Department has the right to make a claim for and receive from the loan or grant recipient moneys not expended in accordance with the act, the loan or grant agreement or this chapter. When a loan or grant recipient defaults, the Department has the right to make a claim for and receive from the loan or grant recipient, the principle balance of the loan and interest incurred to date. Payment shall be due within 60 days of the written demand.

§ 130c.8. Deficits.

The Department's financial obligation is limited to the amount of the sustainable agriculture loan or grant or the alternative crop grant. The Department is not responsible for funding cost overruns incurred by loan or grant recipients.

Subchapter B. SUSTAINABLE AGRICULTURE LOAN PROGRAM

Sec.	
130c.11.	Objective.
130c.12.	Funding.
130c.13.	Amount of loan.
130c.14.	General conditions.
130c.15.	Submission of application.
130c.16.	Processing of applications.
130c.17.	Applicant eligibility.
130c.18.	Review of a loan application.
130c.19.	Eligible uses.

§ 130c.11. Objective.

This subchapter establishes the requirements and procedures of the Program, under which an applicant may receive a loan to implement farming practices that emphasize sustainable agriculture in this Commonwealth.

§ 130c.12. Funding.

Sustainable agriculture loans will be made to the extent funds are made available in the revolving loan account. The revolving loan account, created under section 9 of the act (3 P.S. § 2109), shall be used to fund all sustainable agriculture loans. The revolving loan account shall be funded by appropriations made by the General Assembly and interest earned on the account and interest from loan repayment.

§ 130c.13. Amount of loan.

The maximum amount of a loan is \$15,000 for farm enterprises which are not corporate farms and \$25,000 for corporate farms.

§ 130c.14. General conditions.

(a) **Interest rates.** The interest rate on any loan shall be calculated using simple interest at the percentage rate equal to the Federal Reserve discount rate at the time the loan was made.

(b) *Term of loan and rate of payment.* The term of the loan may not be greater than the useful life of the project, which shall be defined in the loan agreement. The term of the loan may not exceed 7 years. Payments shall be made monthly, quarterly or semiannually, as determined by the Board.

(c) *Security.*

(1) *Requirement.* The Board will secure each loan before distributing the loan proceeds and its lien position may not be less than a second position as to liens on real estate and equipment connected with the farm operation. A loan shall be fully secured and no part of the loan may be unsecured.

(2) *Valuation of collateral.* Real estate security shall be valued on the basis of resale value, taking into account any liens or encumbrances on the land.

(3) *Additional security.* The Board may require other and additional security as it deems just and reasonable, including personal liability promissory notes with confessions of judgment, judgment notes, additional collateral, insurance and guarantees.

(d) *Sale of real or personal property.* If the recipient sells real or personal property connected with the project which is subject to a lien in favor of the Department or Board the principal balance of the loan and interest incurred to date shall immediately become due and payable.

(e) *Verification.* Within 3 months of the project completion date specified in the loan agreement, the recipient shall submit to the Department a final report which includes written receipts, records and any other pertinent documentation evidencing the total amount of the costs incurred and expenditures associated with the project. At the same time, the recipient shall also submit a narrative report describing the effectiveness of the project, the results obtained, the experience gained and the personal knowledge acquired.

(f) *Failure to verify.* If the required receipts, records and documentation are not submitted within the 3-month period or a portion of loan proceeds are unaccounted for, the Secretary may demand that the recipient repay the entire principal balance of the loan or a lesser amount and interest incurred to date. Payment shall be due within 60 days of the written demand.

(g) *Loan agreement.* A recipient shall sign a loan agreement setting forth the term and amount of the loan, a repayment schedule and other terms or conditions as the Department may reasonably require.

(h) *Previous default.* A loan will not be made under this chapter to an applicant who has previously defaulted on a loan made, guaranteed or insured by the Commonwealth, the Federal government or by the government of another state.

(i) *Default.* A recipient who fails to abide by the terms of the act, the loan agreement or this chapter shall be in default. Additionally, a loan will be declared in default if the loan recipient fails to make the required payment within 30 days of the due date. When a loan recipient defaults the Department may seek recovery of the loan funds as delineated in § 130c.7 (relating to right of recovery). A default may be waived by the Secretary, after consultation with the Board, in the event of a physical disability suffered by the recipient or other extenuating circumstances.

§ 130c.15. Submission of application.

An applicant desiring to be considered for a loan under this chapter shall submit to the Board, on a form prepared by the Board, an application for a loan. The completed application shall contain all information requested by the Board. Applications shall be postmarked by July 31 of each year.

§ 130c.16. Processing of applications.

(a) *Executive Director.* Upon receipt of an application for a sustainable agriculture loan and any required supporting documentation, the Executive Director will review this information for completeness and accuracy and submit it to the Board. If the Executive Director determines the application is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, processing of the application will cease until the applicant supplies the requested data. If additional data has been requested, the Executive Director may terminate the processing of an incomplete application when the additional data is not supplied within 30 days of a written request.

(b) *Board.* The Board will review all complete applications and supporting documentation and shall have the power to accept, accept with special conditions or reject applications and issue loans in accordance with the general considerations and eligibility criteria of the act and this chapter.

§ 130c.17. Applicant eligibility.

(a) *Individuals.* To be eligible for a loan under this chapter, the applicant, if an individual, shall be:

(1) A resident of this Commonwealth or show sufficient evidence that he intends to become a resident.

(2) An active resident operator or resident manager of the farm.

(3) Sufficiently educated, trained or experienced to carry out the project and shall certify he will participate in the project for the duration of the loan period.

(4) Able to prove and document that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(5) Able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(6) Creditworthy.

(b) *Family farm partnership.* To be eligible for a loan under this chapter, if a family farm partnership, the applicant's principal operating or managing partners shall:

(1) Be residents of this Commonwealth or demonstrate they intend to become residents.

(2) Have no more than three unrelated members.

(3) Have at least one member residing on or actively operating or managing the farm.

(4) Demonstrate the applicant or the principal operating or managing partners thereof have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and shall certify that he or they will participate in the project for the duration of the loan period.

(5) Be able to prove and document that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(6) Be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(7) Be creditworthy.

(c) *Family farm corporation.* To be eligible for a loan under this chapter, the applicant, if a family farm corporation, shall meet the following requirements:

(1) The family farm corporation shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the family farm corporation shall be residents of this Commonwealth or show sufficient evidence that they intend to become residents.

(3) At least one of the majority stockholders of the family farm corporation shall reside on or actively operate or manage the farm.

(4) None of the shareholders of the family farm corporation may be corporations.

(5) The applicant or the principal operating or managing members or shareholders of the family farm corporation shall have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and shall guarantee that he or they will participate in the project for the duration of the loan period.

(6) The family farm corporation shall demonstrate that the farmland or farm enterprise for which the loan is acquired is located in this Commonwealth.

(7) The family farm corporation shall be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(8) The family farm corporation shall be creditworthy.

(d) *Corporate farm.* To be eligible for a loan under this chapter, the applicant, if a corporate farm, shall meet the following requirements:

(1) The corporate farm shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the corporate farm shall have sufficient education, training or experience to carry out the sustainable agriculture project proposed in the loan application and shall guarantee that the corporation will participate in the project for the duration of the loan agreement.

(3) The corporate farm shall demonstrate that the farm enterprise owns or leases farmland in this Commonwealth.

(4) The corporate farm shall be able to demonstrate the proceeds of the loan will be used for eligible sustainable agriculture purposes as defined in the act and this chapter and that all loan proceeds will be used exclusively for sustainable agriculture purposes in Commonwealth farming operations only.

(5) The corporate farm shall be creditworthy.

(e) *Nonprofit educational institution.* A nonprofit educational institution is not eligible for a loan.

§ 130c.18. Review of a loan application.

(a) *Evaluation.* The Board will evaluate the application based on the applicant's eligibility as set out in § 130c.17 (relating to applicant eligibility).

(b) *Ranking.* No single factor will be paramount. In rendering a decision, the Board will rank the application based on the following criteria:

(1) *Financial responsibility.* Financial responsibility reflecting the ability of the applicant to meet and satisfy all debt service as it becomes due and payable, continue farm operations and protect the Department against undue risk. The applicant's cash flow history, total assets controlled, equity owned, contingent liabilities and history of earnings to date are significant measures of financial responsibility.

(2) *Collateral offered on available security.* The requirement of collateral and collateral taken shall reasonably protect the Department, provide the necessary control of equity and repayment and leave the applicant in a position to reasonably manage the farm operation. The applicant's ability to give the Department a first position in terms of a lien on collateral or to share a first position, will be given great weight.

(3) *Repayment capacity.* The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(4) *Tax obligations.* The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(5) *Projected use.* The manner in which loan proceeds will be utilized in furthering sustainable agriculture in this Commonwealth. This encompasses the goals of the project, its impact on agriculture, the environment and society, its ability to increase farm profitability and productivity, and the potential for success of the project.

(6) *Capital needs (amount of the loan).* The Board will look at the capital needs of the applicant in light of available funds.

(7) *Farming practices.* The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides, or otherwise promote sustainable agriculture. These practices are further explained and defined in § 130c.19 (relating to eligible uses).

(c) *Discretion.* The Board may exercise its judgment in reviewing applications and in determining the amount of each loan so that, when possible, the widest audience becomes acquainted with the principles of sustainable agriculture. This discretion may be exercised to assure loan funds are distributed to the maximum number of applicants and dispersed throughout this Commonwealth.

§ 130c.19. Eligible uses.

(a) *Loan proceeds.* Proceeds from a loan made under this chapter shall be used by the loan recipient solely for eligible sustainable agriculture practices. Sustainable agriculture practices include agricultural practices which:

(1) Are ecologically beneficial.

(2) Improve and ensure the soil and water quality for future generations.

(3) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.

(4) Make the most efficient use of nonrenewable resources.

(5) Integrate natural biological cycles and controls, such as planting cover crops to defend against insects and weeds, using mechanical tillage to control weeds and relying on natural systems, such as biological controls and natural predators.

(6) Ensure the optimum and environmentally compatible use of or eliminate the need for the purchase of off-farm inputs such as chemical or synthetic fertilizers, insecticides and herbicides.

(7) Make the best use of on-farm labor and resources, such as using animal and plant manure to enrich soil.

(8) Sustain the economic viability of farm operations, by implementing practices which lower production costs.

(9) Enhance the quality of life for farmers and society.

(10) Satisfy human food and fiber needs.

(11) Emphasize planting a diverse array of crops and the production of alternative crops.

(b) *Ineligible uses of proceeds.* Loan proceeds may not be used for any of the following purposes:

(1) To refinance a portion of the total project cost or any other existing loans or debts.

(2) To finance, fund or to use in a project outside the geographic boundaries of this Commonwealth.

(3) To purchase off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides.

(4) To fund any educational or promotional program.

Subchapter C. SUSTAINABLE AGRICULTURE GRANT PROGRAMS AND ALTERNATIVE CROP GRANT PROGRAMS

Sec.

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§ 130c.31. Objectives.

This subchapter establishes the requirements and procedures of the Program and the Alternative Crop Grant Program, under which an applicant may receive grants that enable it to implement practices and develop programs which emphasize sustainable agriculture and the use of alternative crops to promote sustainable agriculture in this Commonwealth.

§ 130c.32. Funding.

Sustainable agriculture grants and alternative crop grants will be made to the extent funds are made available. The revenues and appropriations will be deposited in the Fund. All costs, except administrative expenses, related to the sustainable agriculture program will be paid from the Fund.

§ 130c.33. Amount of grant.

Grants may not exceed \$25,000 except as provided in this subchapter. An additional amount of up to \$25,000

may be granted if the applicant matches that additional amount dollar for dollar so that a single grant may not exceed \$50,000 in one calendar year.

§ 130c.34. General conditions.

(a) *Grant agreement.* The applicant shall sign a grant agreement setting forth the term and amount of the grant and other terms or conditions as the Department may reasonably require.

(b) *Verification.* Within 3 months of the project completion date specified in the grant agreement, the applicant shall submit to the Department a final report which includes written receipts, records and any other pertinent documentation evidencing the total amount of the costs incurred and expenditures associated with the project. At the same time, the applicant shall also submit a narrative report describing the effectiveness of the project, the results obtained, the experience gained and the personal knowledge acquired.

(c) *Failure to verify.* If the required receipts, records and documentation are not submitted within the 3-month period or a portion of grant proceeds are unaccounted for, the Secretary may demand the applicant repay the entire principal balance of the grant or a lesser amount and interest incurred to date. The interest rate will be calculated using simple interest at the percentage rate equal to the Federal Reserve discount rate at the time the grant was made. Payment shall be due within 60 days of the written demand.

(d) *Default.* A recipient who fails to abide by the terms of the act, the grant agreement or this chapter shall be in default. When a grant recipient defaults the Department may seek recovery of the grant funds as delineated in § 130c.7 (relating to right of recovery). A default may be waived by the Secretary, after consultation with the Board, in the event of a physical disability suffered by the recipient or other extenuating circumstances.

§ 130c.35. Submission of application.

(a) *Obtaining an application/deadline.* An applicant desiring to be considered for a grant under this chapter shall submit to the Board, on a form prepared by the Board, an application for a grant. The completed application shall contain the information requested by the Board. Applications shall be postmarked by July 31 of each year.

(b) *Limitations.* An applicant may submit applications, in the same year, under both the sustainable agriculture grant program and the alternative crop grant program. An applicant will not be awarded more than one grant in each calendar year and an applicant already possessing a grant will not be eligible to apply for any other grant under this chapter until the applicant's current grant is completed and the proper verification has been provided to the Board.

§ 130c.36. Processing of applications.

(a) *The Executive Director.* Upon receipt of an application for a sustainable agriculture grant or alternative crop grant and the required supporting documentation, the Executive Director will review this information for completeness and accuracy and submit it to the Board. If the Executive Director determines the application is incomplete or inaccurate, final processing of the application may be discontinued or additional data may be requested. If additional data is requested, processing of

the application will cease until the applicant supplies the requested data. If additional data has been requested, the Executive Director may terminate the processing of an incomplete application when the additional data is not supplied within 30 days of a written request.

(b) *The Board.* The Board will review all complete applications and supporting documentation and has the power to accept, accept with special conditions or reject applications and issue grants in accordance with the general considerations and eligibility criteria of the act and this chapter.

§ 130c.37. Applicant eligibility.

(a) *Individuals.* To be eligible for a grant under this chapter, the applicant, if an individual, shall be:

(1) A resident of this Commonwealth or show sufficient evidence that he intends to become a resident.

(2) An active resident operator or resident manager of the farm.

(3) Sufficiently educated, trained or experienced to carry out the sustainable agriculture or alternative crop project proposed in the grant application and must guarantee he will participate in the project for the duration of the grant period.

(4) Able to prove and document that the farmland or farm enterprise for which the grant is acquired is located in this Commonwealth.

(5) Able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(b) *Family farm partnership.* To be eligible for a grant under this chapter, if a family farm partnership, the applicant's principal operating or managing partners shall:

(1) Be residents of this Commonwealth or demonstrate they intend to become residents.

(2) Have no more than three unrelated members.

(3) Have at least one member residing on or actively operating or managing the farm.

(4) Demonstrate the applicant or the principal operating or managing partners thereof have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee he or they will participate in the project for the duration of the grant period.

(5) Be able to prove and document that the farmland or farm enterprise for which the grant is acquired is located in this Commonwealth.

(6) Be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(c) *Family farm corporation.* To be eligible for a grant under this chapter, the applicant, if a family farm corporation, shall meet the following requirements:

(1) The family farm corporation shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the family farm corporation shall be residents of this Commonwealth or show sufficient evidence that they intend to become residents.

(3) At least one of the majority stockholders of the family farm corporation shall reside on or actively operate or manage the farm.

(4) None of the shareholders of the family farm corporation may be corporations.

(5) The applicant or the principal operating or managing members or shareholders of the family farm corporation shall have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee the family farm corporation will participate in the project for the duration of the grant period.

(6) The family farm corporation shall demonstrate that the farmland or farm enterprise for which the grant is acquired, is located in this Commonwealth.

(7) The family farm corporation shall be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(d) *Corporate farm.* To be eligible for a grant under this chapter, the applicant, if a corporate farm, shall meet the following requirements:

(1) The corporate farm shall be incorporated or registered to do business in this Commonwealth.

(2) The principal operating or managing members or shareholders of the corporate farm shall have sufficient education, training or experience to carry out the sustainable agriculture or alternative crop project proposed in the grant application and shall guarantee the corporation will participate in the project for the duration of the grant agreement.

(3) The corporate farm shall demonstrate that the farm enterprise owns or leases farmland in this Commonwealth.

(4) The corporate farm shall be able to demonstrate the proceeds of the grant will be used for eligible sustainable agriculture or alternative crop purposes as defined in the act and this chapter and that all grant proceeds will be used exclusively for sustainable agriculture or alternative crop purposes in Commonwealth farming operations only.

(e) *Nonprofit educational institution.* To be eligible for a grant under this chapter, the applicant, if a nonprofit educational institution, shall:

(1) Qualify as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)).

(2) Be a State-owned or State-related college or university in this Commonwealth or any nonprofit organization, association or group in this Commonwealth.

(3) Have experience in research or education in sustainable agriculture practices.

(4) Have demonstrated a capacity to conduct agricultural research or education programs.

§ 130c.38. Review of a grant application.

(a) *Evaluation.* The Board will evaluate the application based on the applicant's eligibility as set out in § 130c.37 (relating to applicant eligibility).

(b) *Ranking.* No single factor will be paramount. In rendering a decision the Board will rank the application based on the following criteria:

(1) *Financial responsibility.* Financial responsibility reflecting the ability of the applicant to meet and satisfy all debt service as it becomes due and payable, continue farm operations and protect the Department against undue risk. The applicant's cash flow history, total assets controlled, equity owned, contingent liabilities and history of earnings to date are significant measures of financial responsibility.

(2) *Repayment capacity.* The relevant criminal and credit history and ratings of the applicant as determined from credit reporting services and other sources.

(3) *Tax obligations.* The payment to date of all tax obligations due and owing by the applicant to the Commonwealth or any political subdivisions thereof.

(4) *Projected use.* The manner in which grant proceeds will be utilized in furthering sustainable agriculture in this Commonwealth. This encompasses the goals of the project, its impact on agriculture, the environment and society, its ability to increase farm profitability and productivity, and the project's potential for success.

(5) *Capital needs (amount of the grant).* The Board will look at the capital needs of the applicant in light of available funds.

(6) *Environment.* The environmental benefit.

(7) *Profitability.* The potential impact on farm profitability.

(8) *Technology.* The applicability of the techniques or technology to other farm enterprises.

(9) *Effectiveness.* The effectiveness of the project as a demonstration, when applicable.

(10) *Farming practices.* The intent to use practices that would improve soil fertility, lower the cost of production, cause the optimum and environmentally compatible use of off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides, or otherwise promote sustainable agriculture. These practices are further explained and defined in § 130c.39 (relating to eligible uses).

(c) *Discretion.* The Board may exercise its judgment in reviewing applications and in determining the amount of each grant so that, when possible, the widest audience becomes acquainted with the principles of sustainable agriculture. This discretion may be exercised to assure grant funds are distributed to the maximum number of applicants and dispersed throughout this Commonwealth.

§ 130c.39. Eligible uses.

(a) *Grant proceeds.* Proceeds from a grant made under this chapter shall be used by the grant recipient for the practice or promotion of sustainable agriculture or for research or educational programs pertaining to the development of sustainable agriculture, or to adopt practices that emphasize the use of alternative crops. Sustainable agriculture practices include, but are not limited to, agricultural practices which:

(1) Are ecologically beneficial.

(2) Improve and ensure the soil and water quality for future generations.

(3) Enhance environmental quality and the natural resource base upon which the agricultural economy depends.

(4) Make the most efficient use of nonrenewable resources.

(5) Integrate natural biological cycles and controls, such as planting cover crops to defend against insects and weeds, using mechanical tillage to control weeds and relying on natural systems, such as biological controls and natural predators.

(6) Ensure the optimum and environmentally compatible use of or eliminate the need for the purchase of off-farm inputs such as chemical or synthetic fertilizers, insecticides and herbicides.

(7) Make the best use of on-farm labor and resources, such as using animal and plant manure to enrich soil.

(8) Sustain the economic viability of farm operations, by implementing practices which lower production costs.

(9) Enhance the quality of life for farmers and society.

(10) Satisfy human food and fiber needs.

(11) Emphasize planting a diverse array of crops and the production of alternative crops.

(12) Identify agricultural practices that maintain productivity and minimize environmental and farmland degradation.

(13) Develop, integrate and coordinate field experiments and on-farm research and educational efforts related to the practice of sustainable agriculture.

(14) Develop, integrate and coordinate new techniques and technologies which advance the field of sustainable agriculture.

(b) *Ineligible use of grant proceeds.* Grant proceeds may not be used for any of the following purposes:

(1) To refinance a portion of the total project cost or any other existing loan or debt.

(2) To finance, fund or to use in a project outside the geographic boundaries of this Commonwealth.

(3) To purchase off-farm inputs, such as chemical or synthetic fertilizers, insecticides and herbicides.

(4) To fund any educational or promotional program which is not for the sole purpose of advancing the practice of sustainable agriculture.

[Pa.B. Dec. No. 99-453. Filed for public inspection March 19, 1999, 9:00 a.m.]

DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 95]

County Correctional Institutions

The Department of Corrections (Department) proposes to amend Chapter 95 (relating to county correctional institutions), to read as set forth in Annex A. The



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
LEGAL OFFICE

January 31, 2001

Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17120

RE: FINAL-FORM REGULATION
Department of Agriculture
Bureau of Plant Industry
7 Pa. Code Chapter 130c
I.D. No. 2-115
Proposed Rulemaking: 29 Pennsylvania Bulletin 1496 (March 20, 1999)
Final-Form Regulation Approved by
Office of General Counsel: January 23, 2001

Dear Sir or Madam:

Please find enclosed a copy of the above-referenced final-form regulation. This material includes copies of the Preamble and Annex "A". Copies of the Notice of Proposed Rulemaking and Regulatory Analysis Form are also enclosed.

I respectfully request the Independent Regulatory Review Commission review and approve the above-referenced final-form regulation in accordance with the requirements and procedures of the Regulatory Review Act.

This Department's responses to the comments received from the public, the Legislature and the Independent Regulatory Review Commission with respect to the proposed regulation are set forth in the Preamble to the final-form regulation. Copies of this final-form regulation have been delivered to the appropriate Legislative Committees (the House and Senate Committees for Agriculture and Rural Affairs), and have been mailed or delivered to each commentator on this date. In response to the requirement (at 71 P.S. § 745.5a(b) and 1 Pa. Code § 307.2(c)(7)) that this Department provide the names and addresses of commentators who requested additional information on the final-form regulation, the Department relates that no commentators have made this request. However, the Department has sent a copy of the final-form regulations to all commentators.

The Department will provide you with any assistance you may require to facilitate a thorough review of this final-form regulation. Thank you for your attention to this matter.

Sincerely,

David C. Kennedy
David C. Kennedy
Assistant Counsel

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**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 2-115
 SUBJECT: Sustainable Agriculture Loan and Grant Programs
 AGENCY: DEPARTMENT OF AGRICULTURE

#2012

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2001 JAN 31 PM 09:31
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1/31/01	<i>Laura D. Hoffman</i> Representative Bonds office	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1/31	<i>Cecilia Boyer</i> Senator Wulgin's office	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
1/31/01	<i>Teri Eckert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

January 23, 2001