



THE TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Agricultural Resources Evaluation Handbook

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LIST OF ACRONYMS

Act 43	- Agricultural Area Security Law, Pennsylvania Act 1981-43, as amended
Act 71	- Pennsylvania Act 1976-71
Act 100	- Pennsylvania Act 1979-100
Act 120	- Pennsylvania Act 1970-120
Act 247	- Pennsylvania Act 1968-247, as amended (Municipalities Planning Code - MPC)
Act 319	- Pennsylvania Act 1974-319
Act 442	- Pennsylvania Act 1967-442
Act 515	- Pennsylvania Act 1966-515
ALCAB	- Agricultural Lands Condemnation Approval Board
ALPP	- Agricultural Land Preservation Policy
ASA	- Agricultural Security Area
BOPD	- Bureau of Project Delivery (including Highway Design and Technology Section and Environmental Policy and Development Section)
BOPD-EPDS	- Bureau of Project Delivery, Environmental Policy and Development Section
BOPD-HDTS	- Bureau of Project Delivery, Highway Design and Technology Section
BRPA	- Bridge and Roadway Programmatic Agreement
CEE	- Categorical Exclusion Evaluation
CRP	- Conservation Reserve Program
DEIS	- Draft Environmental Impact Statement
DO	- District Office
DOQ	- Digital Orthophoto Quadrangle
EA	- Environmental Assessment
EIS	- Environmental Impact Statement
FAR	- Farmland Assessment Report
FCIR	- Farmland Conversion Impact Rating
FEIS	- Final Environmental Impact Statement
FHWA	- Federal Highway Administration
FONSI	- Finding of No Significant Impact
FPPA	- Farmland Protection Policy Act

LIST OF ACRONYMS (cont.)

FSA	- Farm Service Agency
GIS	- Geographic Information System
LESA	- Land Evaluation and Site Assessment
LPN	Linking Planning and NEPA
MPC	- Municipalities Planning Code, Pennsylvania Act 1968-247, as amended
NEPA	- National Environmental Policy Act
NRCS	- Natural Resources Conservation Service
OCC-RPD	- Office of Chief Counsel-Real Property Division
PAL	- Productive Agricultural Land
PASDA	- Pennsylvania Spatial Data Access
PennDOT	- Pennsylvania Department of Transportation
PDA	- Pennsylvania Department of Agriculture
ROD	- Record of Decision
ROW	- Right-of-Way
SAMI	- Safety and Mobility Initiative
SR	- State Route
USDA	- United States Department of Agriculture
WRP	- Wetland Reserve Program

AGRICULTURAL RESOURCES EVALUATION HANDBOOK

PREFACE

The Bureau of Project Delivery, Environmental Policy and Development Section (BOPD-EPDS) is committed to integrating agricultural resource considerations into all aspects of transportation planning and development. The agricultural resources evaluation process will be incorporated in the Pennsylvania Department of Transportation's (PennDOT's) transportation project development process starting in the Planning process, continuing through the Preliminary Engineering/Environmental Decision Making process, and extending into Final Design processes. In order to achieve this goal, the agricultural resource management actions described herein have been developed to identify potential resources early in the transportation project development process in order to avoid and/or minimize impacts to agricultural resources.

This handbook is for guidance and informational purposes only; it is not regulatory.

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SECTION I. INTRODUCTION

This document establishes procedures to allow for the effective integration of agricultural resources evaluation into the Pennsylvania Department of Transportation's (PennDOT's) transportation project development process beginning with Planning and continuing through the Preliminary Engineering/Environmental Decision Making process, and into Final Design/Right-of-Way Acquisition/Construction. These procedures have been developed in consideration of the National Environmental Policy Act (NEPA), PA Act 120, and other applicable state and federal laws. These procedures apply to all federally aided and state-funded transportation projects.

This handbook supersedes Publication 324, Agricultural Resources Evaluation Handbook, June 2003. This handbook was developed in coordination with the Pennsylvania Department of Agriculture (PDA), the Federal Highway Administration (FHWA), and the United States Department of Agriculture, Natural Resources Conservation Service (USDA, NRCS).

The agricultural resources evaluation process described herein was developed for all classes of environmental decision actions including Environmental Impact Statements (EISs), Environmental Assessments (EAs), Categorical Exclusion Evaluations (CEEs), Environmental Evaluation Reports (ERRs), and Environmental Documentation (ED). It should be noted that, the level of detail in the data collected and presented may differ according to the agricultural and other resources present in the project study area and the scope of the proposed project. The agricultural resource management actions described herein have been developed to identify potential resources early in the transportation project development process in order to avoid and/or minimize impacts to agricultural resources.

The agricultural resources evaluation process was developed in conformance with the following federal and state laws and policies:

- [7 U.S.C. §4201, Farmland Protection Policy Act \(FPPA\) of 1981](#)
- [PA Act 1979-100, The Administrative Code of 1929](#)
- [PA Act 1981-43, Agricultural Security Law](#)
- [4 Pa Code Chapter 7, §7.301 et seq., Agricultural Land Preservation Policy \(ALPP\); Executive Order No. 2003-2, March 20, 2003](#)

This Agricultural Resources Handbook has been divided into Sections as follows:

- [Section II](#) provides definitions of the protected agricultural resources identified in this handbook and an overview of the laws and regulations pertaining to agricultural preservation.
- [Section III](#) discusses the applicability of the agricultural evaluation process, provides an overview of the process, and discusses the integration of the process with transportation project development.
- [Section IV](#) describes the evaluation process for Farmland Protection Policy Act (FPPA) farmland.
- [Section V](#) describes the evaluation process for projects subject to Act 100 and/or Act 43, and therefore the Agricultural Lands Condemnation Approval Board (ALCAB) and the mechanics of preparing for and presenting an ALCAB case.

- [Section VI](#) describes the evaluation process for projects subject to the Agricultural Land Preservation Policy (ALPP).

The following materials are included as Appendices in this Handbook:

- [Appendix 1](#) provides a glossary of important terms in agricultural resource procedures.
- [Appendix 2](#) provides an overview of the responsibilities of the agencies and administrative boards involved in agricultural preservation.
- [Appendix 3](#) provides guidance on requesting a legal opinion from the Office of Chief Counsel, Real Property Division (OCC-RPD),
- [Appendix 4](#) provides information for FPPA coordination,
- [Appendix 5](#) provides ALCAB coordination examples,
- [Appendix 6](#) provides contact information for County Agricultural Land Preservation Boards,
- [Appendix 7](#) provides contact information for Private Conservation Organizations, and
- [Appendix 8](#) provides links to websites which may be useful in the agricultural resources evaluation including links to relevant legislation and regulations.
- [Appendix 9](#) is the ALCAB adjudication and order from the Pennsylvania Turnpike Commission – Westmoreland County, Total Reconstruction and Widening between Mileposts 67 and 75 project.
- [Appendix 10](#) provides an overview of collecting data through the USDA NRCS Web Soil Survey.

These procedures will be updated as needed through the issuance of revisions or updates. The Bureau of Project Delivery – Environmental Policy and Development Section (BOPD-EPDS) will issue the revisions and make technical modifications as necessary. Direct questions, comments, or suggestions about these policies and guidelines to:

Bureau of Project Delivery
Environmental Policy and Development Section
Pennsylvania Department of Transportation
Keystone Building
400 North Street, 7th Floor
Harrisburg, Pennsylvania 17120
Phone: 717-787-1024
Fax: 717-772-0834

SECTION II. OVERVIEW OF PROTECTED RESOURCES AND GOVERNING LEGISLATION

The major laws and regulations that protect agricultural resources from condemnation or conversion to nonagricultural uses as a result of federal or state-funded programs include:

- [7 U.S.C. §4201, Farmland Protection Policy Act \(FPPA\) of 1981, as amended](#)
- [PA Act 1979-100, The Administrative Code of 1929](#)
- [PA Act 1981-43, Agricultural Security Law, as amended](#)
- [4 Pa Code Chapter 7, §7.301 et seq., Agricultural Land Preservation Policy \(ALPP\), Executive Order No. 2003-2, March 20, 2003](#)

The state and federal laws and regulations protecting agricultural resources have some similar features and often overlap. The key features include: protected resource, exemptions (if any), and documentation. [Table 1](#) provides a brief description of each of those features at a glance.

A review of the role of agencies and administrative boards as they relate to agricultural resource protection is found in [Appendix 2](#).

A. Protected Agricultural Resources

This handbook identifies three types of protected agricultural resources:

- Farmland Protection Policy Act (FPPA)
- Productive Agricultural Land (PAL); and
- Prime Agricultural Land.

NOTE: FPPA farmland is based on underlying soils, while productive and prime agricultural lands are based on land use.

The definitions of these agricultural resources are as follows:

1. FPPA Farmland is based on the underlying soils. FPPA farmland may be present even if no active agricultural land is present within the study area. Lists of soils considered FPPA farmland are available through the county NRCS offices and can also be accessed through [USDA-NRCS's Web Soil Survey](#). FPPA farmland consists of the following categories:

a. Prime farmland – This is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed crops, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion, as determined by the Secretary of the USDA. Prime farmland includes land that possesses the above characteristics and which is *available for use* to produce livestock and timber (the land may include, but is not limited to, pastureland, rangeland, or forestland). It does not include land that is already in or committed to urban development or water storage.

Table 1: Agricultural Legislation/Regulation Summary				
Key Features	7 USC §4201 (FPPA)	4 Pa. Code Chapter 7, §7.301 (ALPP)	PA Act 1979-100 (Act 100)	PA Act 1981-43 (Act 43)
Protected Resource	FPPA farmland soils	Prime agricultural land (not including timber)	Productive agricultural land (not including timber)	Productive agricultural land (not including timber)
Exemptions by Project Type	On-alignment bridge replacements and small acreages (10 acres or less per linear mile or 3 acres for existing bridge or interchange projects)	No exemptions	Widenings, elimination of curves, reconstructions	Widenings, elimination of curves, reconstructions
Other Jurisdictional Issues	Resource based law Federally funded projects only	Land use based regulation Agricultural production required for preceding three years Prioritized levels of classification	Land use based law Refers to present tense current land use (not future intent of land) Applies to DOT Jurisdiction over <i>condemnation</i>	Land use based law Refers to present tense current land use (not future intent of land) Expanded jurisdiction to all projects conducted by agencies, municipal governments, etc. with eminent domain powers Jurisdiction over <i>condemnation</i>
ALCAB Involvement	Analysis to be included in the FAR	ALCAB to consider ALPP for projects subject to ALCAB approval No ALCAB involvement if project not already before ALCAB	Condemnation approval required for new highways, new interchanges, and some improvement projects (See Table 2)	Condemnation approval required for new highways, new interchanges, some improvement projects, and airports (See Table 2)
Required Documentation	AD-1006, summary in NEPA document, summary in farmlands assessment report (FAR) (if applicable), technical support file	Summary in NEPA/PA Act 120 document, summary in FAR (if applicable), technical support file	FAR, ALCAB hearing, summary in NEPA/PA Act 120 document, technical support file	FAR, ALCAB hearing, summary in NEPA/PA Act 120 document, technical support file

b. Unique farmland – This is land other than prime farmland that is used for the production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained, high quality, and high yields of special crops when treated and managed according to acceptable farmlands methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables. In Pennsylvania, the orchards of Adams County and the grape-growing areas of Erie County are examples of unique farmland. Other crops that may be considered unique on a county by county basis are listed on page 13 of the [PDA's 2008 "A Guide to Farmland Preservation"](#). If farmland is encountered with any of these crops, contact the County Agricultural Preservation Board (contact information included in [Appendix 6](#)) to determine if they are considered unique farmland in that county.

c. Farmland of statewide importance – This is land other than prime or unique farmland that has been designated by the State Rural Development Committee as being of statewide importance for the production of food, feed, fiber, forage, or oilseed crops. In Pennsylvania, land in capability Classes 1, 2, or 3, that is not prime or unique farmland, is considered farmland of statewide importance.

d. Farmland of local importance – This is land other than prime or unique farmland or farmland of statewide importance that has been designated by concerned local agencies (NRCS county offices, county conservation districts) as being important for the production of food, feed, fiber, forage or oilseed crops.

2. Productive Agricultural Land (PAL) is any land used for production, for commercial purposes, of crops, livestock, and livestock products. Agricultural production includes the processing or retail marketing of such crops, livestock, or livestock products if more than 50 percent of such processed or merchandised products are produced by the farm operator. PAL is protected under Act 100 and Act 43. Crops, livestock, and livestock products that are protected by Act 100/Act 43 include, but are not limited to, the following items:

- Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;
- Fruits, including apples, peaches, grapes, cherries, and berries;
- Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions, and mushrooms;
- Horticultural specialties, including nursery stock ornamental shrubs, Christmas trees, ornamental trees, and flowers;
- Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, and fur; and
- Aquatic plants and animals and their by-products.

PennDOT policy also considers barns and other agricultural buildings, land lying fallow due to crop rotation, and subsistence farms where the farm operator has land in agricultural production for his own “subsistence” use rather than primarily for commercial purposes as PAL. Land that is fallow due to participation in USDA conservation reserve enhancement programs or commodity support programs is considered to be land in agricultural production because it would be in

production under normal circumstances. Land used for the purposes of growing timber is not considered land in agricultural production under any governing laws.

3. Prime Agricultural Land, as denoted by the ALPP, includes land currently in active agricultural use (not including the growing of timber) which has been devoted to active agricultural use for the preceding three years and falls into one of the following five prioritized categories, beginning with highest:

a. Preserved farmland – This includes farmland restricted to agricultural use by agricultural conservation easements or deed restrictions. Some easements may have used federal funds through the [USDA-NRCS Agricultural Lands Easement \(ALE\) program](#) and are subject to additional restrictions. USDA-NRCS does not work directly with landowners for ALE; instead NRCS provides financial assistance to entities that have existing land trust or protection programs. The conservation easements must be recorded at the appropriate county land records office and may include easements owned by the Commonwealth or county under PA Act 43, as well as easements owned by other qualified conservation organizations (See [Appendix 7](#) for a partial list of organizations). The deed restrictions include farmlands restricted to agricultural use under the authority of PA Act 442 that have been recorded in the appropriate county records office.

b. Agricultural Security Areas (ASA) – [Act 43 of 1981](#) – Refer to [Section B, Subsection 3](#) below for information on ASAs.

c. Farmland enrolled in preferential tax assessments – This includes farmland enrolled in [Act 319 of 1974](#) (Clean and Green) or Act 515 of 1996. Farmland in these programs is enrolled for preferential tax assessments as land in either “agricultural use” (Act 319) or “farmland” (Act 515). The land is taxed according to its use value rather than the prevailing market value. Property owners apply to be enrolled in these similar programs, which reduce taxes on lands in certain land uses, including agriculture. The property owners commit to maintaining the current land use for a certain time period in exchange for reduced taxes. A change in use will subject the owner to the payment of back taxes plus interest over the committed time period. If land enrolled in a preferential tax assessment program is converted to highway purposes, back taxes do not have to be paid.

Under Act 319, better known as Clean and Green, agricultural or wooded lands of a minimum of ten acres or properties yielding a minimum yearly gross income of \$2,000.00 independent of property size can be enrolled for seven year time periods. A county’s board of assessor is responsible for accepting and processing applications from property owners. Approved applications are recorded in the office of the recorder of deeds.

Under Act 515, land recognized by the local municipality as in use as farmland, forest, water supply protection, or open space can be enrolled for ten year time periods. The county government (usually the board of commissioners) must establish procedures for enrollment, and the enrollment is recorded with the county recorder of deeds. Not all counties have established procedures for enrolling land in preferential tax assessment under this act.

d. Farmland planned for agricultural use and subject to effective agricultural zoning – This involves farmland designated for agricultural use in a comprehensive plan and zoning ordinance adopted pursuant to [Act 247 of 1968, as amended, the PA Municipalities Planning Code](#), that delineates an area of agriculturally valuable soils and existing farms.

e. Farmland classified as unique farmland or capability Class I, II, III, or IV land – Capability Class I, II, III, and IV land is mapped by the USDA and published in the county soil surveys. Unique farmland is land defined by the USDA as land other than prime farmland that is used for the production of specific high-value food and fiber crops (citrus, tree nuts, olives, cranberries, fruits, vegetables). Refer to [Unique Farmlands](#) above for examples of unique farmlands in PA.

NOTE: Prime agricultural land as defined under ALPP is not the same as Prime farmland as defined under FPPA. The ALPP definition refers to land currently in active agricultural use (not including the growing of timber) which has been devoted to active agricultural use for the preceding three years and falls into one of the five prioritized categories discussed above. Prime farmland is a category of farmland soils; prime farmland soil may or may not be in current agricultural production.

B. Governing Legislation

1. Federal Farmland Protection Policy Act (7 U.S.C. §4201)

The purpose of the FPPA is to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. The key features of the FPPA as they relate to this handbook are described below:

- The resources protected by the FPPA include prime and unique farmland soils, and farmland soil of statewide or local importance. These lands are categorized by the USDA, NRCS *based on underlying soil mapping units*.
- Prime and unique farmland, and farmland of statewide or local importance (FPPA farmland) *does not have to currently be used for agricultural purposes*.
- FPPA compliance is required for all federally funded transportation projects; regardless of whether the project involves construction of a new facility or improvements to an existing facility with the following exemptions:
 - Online bridge replacements
 - (1) Small acreages (i.e., 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) where a statewide, local, or tribal Land Evaluation and Site Assessment (LESA) system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvements to existing linear projects, such as highways.
- Compliance with the FPPA is not required for state or state/local funded projects, only federally funded Departmental actions must be in compliance with the Act.

- Certain lands, including those in urban use or planned for urban use, are exempt from the FPPA law.

See [Section IV](#) for more detailed information on the FPPA evaluation process.

2. Pennsylvania Act 1979-100

In December 1979, the Pennsylvania Administrative Code of 1929 was amended by P.L. 478, Act Number 100 (herein after referred to Act 100). Act 100 established the ALCAB as an independent administrative board with approval authority over the condemnation of land being used for productive agricultural purposes (PAL) for certain types of transportation projects. ALCAB will approve condemnation only if it determines that there is no reasonable and prudent alternative to the permanent conversion of PAL for highway purposes.

For the purposes of this handbook, the important features of Act 100 include the following:

- PennDOT must file an application for ALCAB approval to condemn non-exempt lands in agricultural production. ALCAB conducts a hearing on the application and must grant approval if PennDOT can demonstrate that there is no reasonable and prudent alternative to the permanent conversion of PAL for the project.
- ALCAB only has jurisdiction over the condemnation of PAL, not including the growing of timber.
- ALCAB has jurisdiction over condemnation for *highway purposes, but not including activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curves, or reconstruction.*
- ALCAB has 60 days upon receipt of the request for determination to render a decision. If no determination is made within 60 days, the condemnation may proceed.
- Preparation of a Farmland Assessment Report (FAR) and exhibits for presentation to ALCAB are typically required.

See [Section V](#) for detailed information on the Act 100/Act 43 evaluation process and presenting at the ALCAB hearing.

3. Pennsylvania Act 1981-43, Agricultural Area Security Law

The Agricultural Area Security Law (Act 43) enables landowners to propose the creation of ASAs to municipal governments. An ASA must contain a minimum of 250 acres of viable agricultural land, which may be comprised of noncontiguous tracts that are at least 10 acres in size or a farm parcel less than 10 acres that has an anticipated yearly gross income from agricultural production of at least \$2,000. An ASA may contain multiple landowners and may exist in more than one local government unit for the same parcel. In addition, Act 43 also established a Commonwealth program to acquire perpetual agricultural conservation easements within an ASA. In order to identify ASAs, it will likely be necessary to talk with the landowners and municipal officials. This information may be available through GIS databases.

Upon receiving a proposal to create an ASA, PA Act 43 authorizes the municipal government to establish an agricultural area advisory committee for the purpose of providing expert advice. A

municipal government may approve or disapprove the proposal subsequent to a public hearing, during which the recommendation of the county planning commission and the agricultural area advisory committee are considered. If an ASA is created, it is reviewed every seven years, at which time it can be renewed, terminated, or modified, subsequent to a public hearing. An ASA can also be reviewed prior to the end of the seven year period if 10 percent of the land within the ASA is converted to non-agricultural development.

PA Act 43 prohibits municipalities from enacting laws or ordinances that would unreasonably restrict farm practices within an ASA. The State Agricultural Land Preservation Board was created as a departmental board within the PDA to administer the agricultural conservation easement purchase program (as opposed to the ASA program which is administered by municipalities) at the state level. Easement purchases authorized by Act 43 can be state owned, county owned, or owned jointly by the state and a county.

For the purposes of this handbook, the following are key features of Act 43:

- PennDOT must file an application for ALCAB approval to condemn non-exempt ASA lands in agricultural production. ALCAB conducts a hearing on the application and must grant approval if PennDOT can demonstrate that there is no reasonable and prudent alternative to the permanent conversion of the PAL for the project.
- The hearing must be in a location at or near the ASA affected by the project (this is in contrast to Act 100 where the hearing can be held in Harrisburg instead of near the project area).
- ALCAB only has jurisdiction over the condemnation of ASA lands which are also PAL, not including the growing of timber.
- Act 43 contains the same exemption clause as Act 100 regarding highway projects – *highway purposes, but not including activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curves, or reconstruction.*
- Act 43 expands ALCAB’s jurisdiction over projects other than highway projects involving the condemnation of PAL, including projects involving airports.
- Preparation of a FAR and exhibits for presentation at ALCAB are typically required.

See [Section V](#) for detailed information on the Act 100/Act 43 evaluation process and presenting at the ALCAB hearing. Act 100/Act 43 apply only when condemnation of PAL is required. These procedures would not apply to those projects subject to ALCAB’s jurisdiction if the property were amicably acquired.

4. 4 Pa Code, Chapter 7, Section 7.301 et seq., Agricultural Land Preservation Policy (ALPP)

Compliance with the ALPP is required for all agencies under the jurisdiction of the governor. The intent of the policy is to protect and preserve the Commonwealth’s prime agricultural land. The key features of ALPP as it relates to this handbook are as follows:

- The policy identifies prime agricultural land as land in active agricultural use (not including the growing of timber) that has been devoted to active agricultural use for the preceding three years.
- Prime agricultural land must fall into one of the following categories: (1) farmland preserved through deed restrictions; (2) ASAs; (3) farmland enrolled for preferential tax assessments as land in agricultural use or farmland; (4) farmland planned for agricultural use and subject to effective agricultural zoning; and (5) farmland classified as unique, or as capability Class I, II, III, or IV soils.
- PennDOT cannot permanently convert prime agricultural land to nonagricultural use if other feasible alternatives to the conversion are available.
- The policy requires that ALCAB consider compliance with the ALPP in reaching its determination regarding Act 100 or Act 43 projects.
- There is no exemption clause in ALPP to waive the policy for improvement projects (as in Act 100 and Act 43).

NOTE: It is important to recognize differences between the ALPP and Act 100/Act 43. The key differences are:

- The ALPP requires land to be devoted to active agricultural use for the preceding three years. Act 100 and Act 43 only require land to be in present agricultural production.
- The ALPP does not contain an exemption clause for highway improvement projects similar to the clause in Act 100 and Act 43.
- The ALPP, itself, does not limit the ability to condemn. Only Act 100 and Act 43 limit the ability to condemn.

See [Section VI](#) for more detailed information on the ALPP evaluation process.

SECTION III. AGRICULTURAL EVALUATION PROCESS

A. Applicability of the Agricultural Evaluation Process to Transportation Projects

The extent of the agricultural resources evaluation will depend upon the type of project and the type of agricultural resources affected. The evaluations may range from exemption statements to the development of a FAR as well as a presentation before the ALCAB. The reason the level of evaluation is tied to the type of transportation project is that several of the laws and regulations discussed in [Section II](#) (specifically Act 100 and Act 43) contain exemption clauses for highway improvement projects. *However, the ALPP does not exempt highway improvement projects and an analysis would be required. FPPA does exempt on-alignment bridge replacements and projects with small acreages (i.e., 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvements to existing linear projects, such as highways.* The level of evaluation also differs according to the resource identified in the project study area. The state agricultural preservation laws and regulations (Act 100/Act 43, ALPP) were designed to protect *PAL and prime agricultural land*, while the federal FPPA regulation is designed to protect *important farmland soil (FPPA farmland)*. The first step in conducting an agricultural resources evaluation is to determine which evaluations (FPPA, ALPP, Act 100/Act 43) are applicable to the project.

How do you decide which agricultural regulations are applicable to your project? There are several questions that can be answered early in a project's development to help identify which regulations are applicable.

- Does the project involve federal funding?
- Does the project area contain prime agricultural land?
- Does the project area contain PAL?
- Can agricultural resources be avoided?

Answering these questions can help direct you in the evaluation of agricultural resources. Included as **Figures 1, 2, and 3** are simple flow charts which will guide you in identifying the agricultural regulations which are applicable to your project. Keep in mind that multiple regulations may be applicable on one project. The compliance procedures have been grouped into three categories:

- Farmland Protection Policy Act (FPPA) Evaluation - [Section IV](#)
- Act 100/Act 43 (ALCAB) Evaluation - [Section V](#)
- Agricultural Land Preservation Policy (ALPP) Evaluation - [Section VI](#)

Summary information on different general project types and what agricultural evaluations, including ALCAB review, are required is provided in [Table 2](#). As shown in [Table 1](#), Act 100 and Act 43 include exemption clauses for projects involving widenings, elimination of curves, and reconstructions. Act 100 states (Act 1979-100, Section 306(d)(1)) ALCAB shall have jurisdiction over condemnation for the following purposes: (1) Highway purposes, *but not including activities relating to existing highways such as, but not limited to, widening roadways,*

the elimination of curves or reconstruction. Act 43 states (Act 1981-43, Section 13(d)(2)(ii)) in the case of condemnation for highway purposes (but not including activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curves or reconstruction, for which no approval is required)..., the Agricultural Lands Condemnation Approval Board or other appropriate reviewing body shall approve the proposed condemnation only if it determines there is no reasonable and prudent alternative to the utilization of the land within the agricultural security area for the project.

As a result the OCC-RPD has identified certain project types where the district can conclude that a project type is exempt from ALCAB (shown in green on [Table 2](#)), project types where ALCAB is always applicable (shown in red on [Table 2](#)), and project types where ALCAB may or may not be applicable and a legal opinion from OCC-RPD (refer to [Appendix 3](#)) should be requested (shown in yellow on [Table 2](#)). If a project type is not listed in [Table 2](#), consult with OCC-RPD to obtain a legal opinion. A legal opinion can always be requested if desired.

NOTE: Each farmland regulation involves specific steps and information to demonstrate compliance. The information to be gathered varies from regulation to regulation with some overlaps. If more than one regulation/process is applicable to a project, be sure to gather the data necessary for compliance with each regulation. It will be important to use proper terminology to keep the required analyses separate and to avoid confusion.

NOTE: As a project progresses and more information is gathered, the extent of the agricultural evaluation may change. The project team should be aware of all the applicable laws and regulations and return to this issue throughout the life of the project. Should the District have any questions regarding what level of analysis is required, they should consult with the PennDOT Bureau of Project Delivery, Environmental Policy and Development Section (BOPD-EPDS) and the Office of Chief Counsel, Real Property Division (OCC-RPD). See [Appendix 3](#).

B. Agricultural Evaluation Process

The level of information gathered and analyzed for each applicable agricultural regulation will vary according to the nature and complexity of the proposed transportation project. At least some level of agricultural evaluation must be performed for all PennDOT projects requiring an environmental decision.

1. Linking Planning and NEPA and Project Scoping

During planning, a Linking Planning and NEPA (LPN) Level 2 screening form was likely completed for the project. Environmental screening, including agricultural GIS data layers, is part of the Level 2 form. GIS layers in the environmental screening include prime farmland soils, soils of statewide importance, and agricultural easements.

In general, it is during the scoping process that the following determinations are made: the NEPA/PA Act 120 class of action, the preliminary range of alternatives, and the preliminary

study area. Coordination with the District Office, BOPD (EPDS and HDTS), FHWA, and other interested agencies should occur at this time. During LPN and project scoping, the purpose and need should be carefully established, bearing in mind that if the project requires Act 100/Act 43 coordination and goes to ALCAB, each alternative will need to be tested against the project needs.

Table 2: Examples of Projects Involving Agricultural Resources

Type of Transportation Project	Applicable Legislation		
	FPPA ¹ (Section IV)	ALPP (Section VI)	Acts 100/43 (Section V)
Bridge rehabilitation, reconstruction, replacement on same alignment	Exempt ^{5,6}	Yes	Exempt ³
Highway resurfacing, restoration, or reconstruction within existing ROW	Exempt ⁵	Yes	Exempt ³
Addition of shoulders or truck-climbing lanes within existing ROW	Exempt ⁵	Yes	Exempt ³
Addition of auxiliary lanes for parking, weaving, turning, etc.	Yes ⁵	Yes	Exempt ³
Highway Safety Improvement Program (HSIP) projects	Yes ⁵	Yes	Exempt ³
Rehabilitation of existing bus or rail buildings and facilities	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Addition of Park and Ride facilities for existing highways	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Construction of new truck weigh stations, rest areas, or information centers on existing highways	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Bridge replacement on new alignment	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Construction of service roads for improvements to existing highways	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Construction of replacement wetlands for impacts resulting from improvements to existing highways	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Temporary construction impacts	N/A	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
Stormwater management basins	Yes	Yes	Legal opinion from OCC-RPD regarding applicability of Acts 100/43 required when PAL may need to be condemned ²
New maintenance stockpile sites	Yes	Yes	Yes
New interchanges at new locations on existing highways	Yes	Yes	Yes
Airports	Yes	Yes	Act 43 Only ⁴
Highways on new alignment	Yes	Yes	Yes
Park and Ride facilities on new highways	Yes	Yes	Yes
Mitigation sites for impacts resulting from new facilities**	Yes	Yes	Yes

¹ Only federally funded projects require FPPA compliance.

² See Appendix 3 – Requesting a Legal Opinion from OCC-RPD.

³ Based on the exemptions for “activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curves or reconstruction” from Act 100 and Act 43

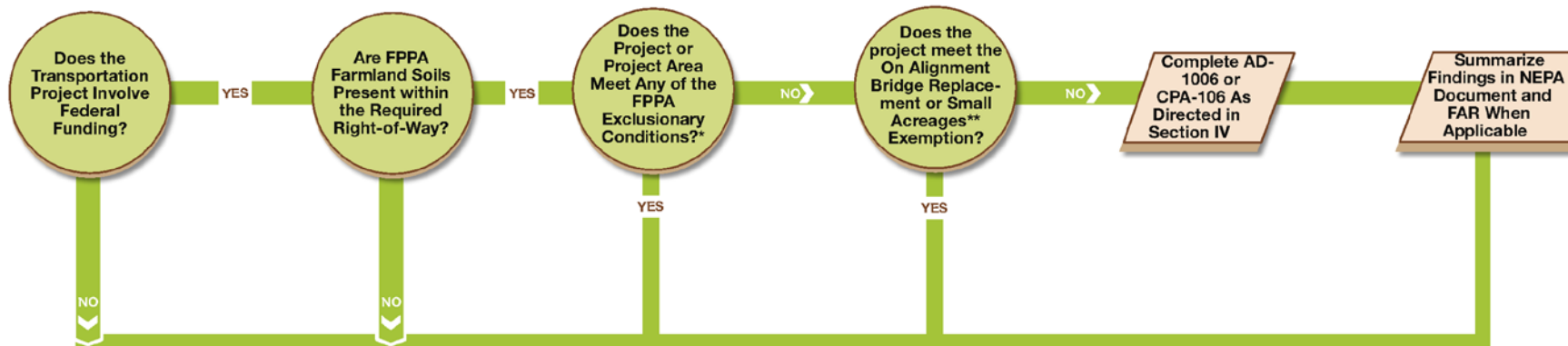
⁴ Act 43 expands ALCAB’s jurisdiction over projects other than highway projects involving the condemnation of PAL, including projects involving airports.

⁵ May meet requirements of 523.11E(1): Small acreages (i.e., 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvements to existing linear projects, such as highways.

⁶ Meets the requirements of 523.11C — (10) Restoration, maintenance, renovation, or replacement of existing structures prior to the time of Federal assistance (i.e. the structure was already in place and PennDOT is using federal funds to repair or replace the structure then it is “prior to the time of federal assistance”).

**Mitigation sites may not be identified until Final Design has begun on a project. It is important to remember that agricultural impacts that result from mitigation sites must still be evaluated in accordance with applicable regulations.

Figure 1. FPPA Process Overview



***FPPA Exclusionary Conditions**

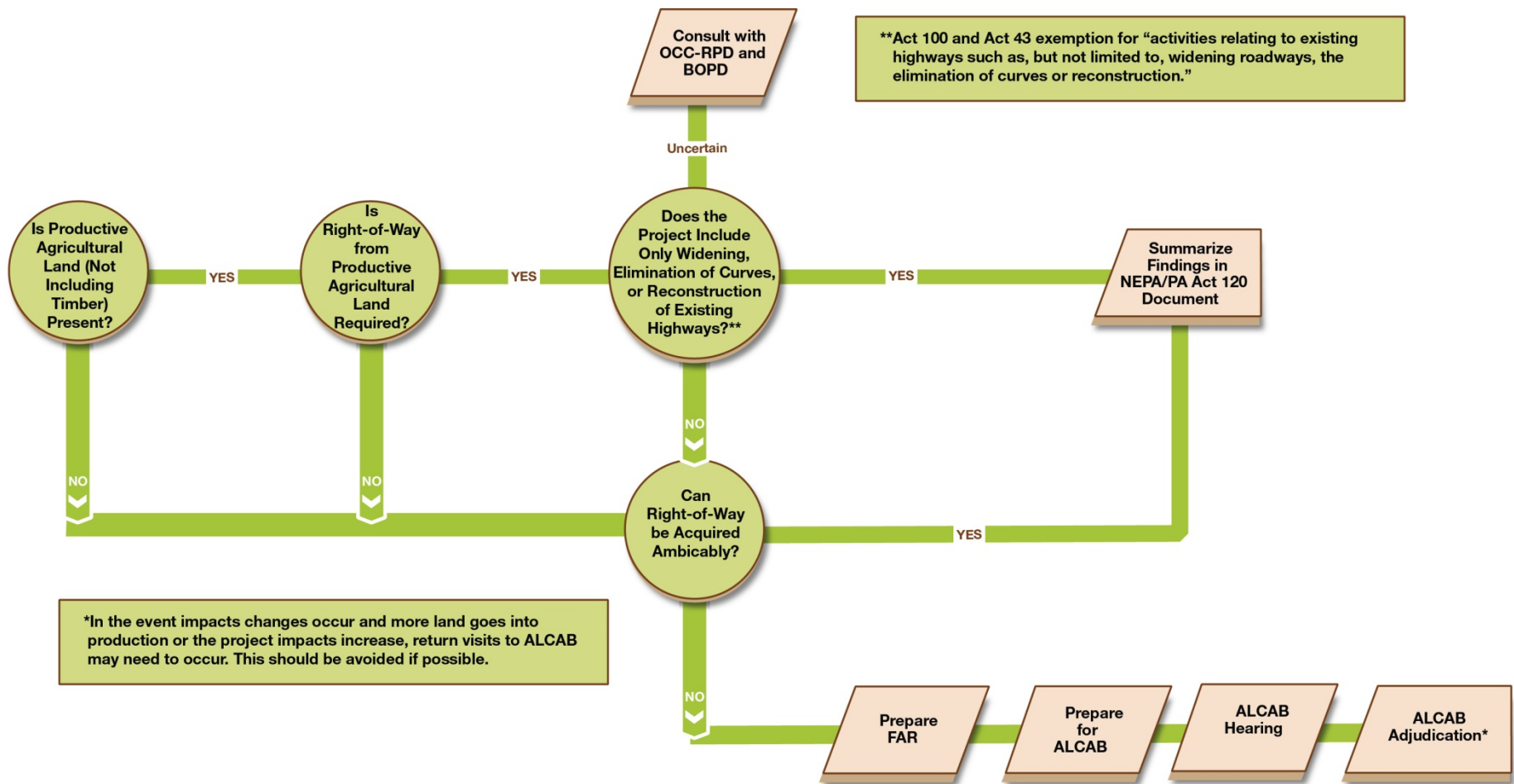
1. Required ROW does not contain any prime or unique farmland soils or farmland soils of statewide importance.
2. Transportation projects specifically authorized for national defense purposes.
3. Projects that do not result in the conversion of prime or unique farmland soils, or farmland soils of statewide or local importance (project can be completed within existing ROW).
4. Temporary construction impacts that do not result in the permanent conversion of prime or unique farmland soils, or farmland importance.
5. Farmland soils already in or committed to urban development or water storage:
 - Land with a density of at least 30 structures per 16 hectare (40 acre) area (0.75 structure/acre)
 - Land identified as "urbanized area" on a Census Bureau Map
 - Land identified as "urban" area mapped with a tint overprint on a USGS topographic map
 - Land identified as "urban-built up" on a USDA Important Farmland Map

****Small Acreages Exemption**

Small acreages (i.e.) 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvements to existing linear projects, such as highways.

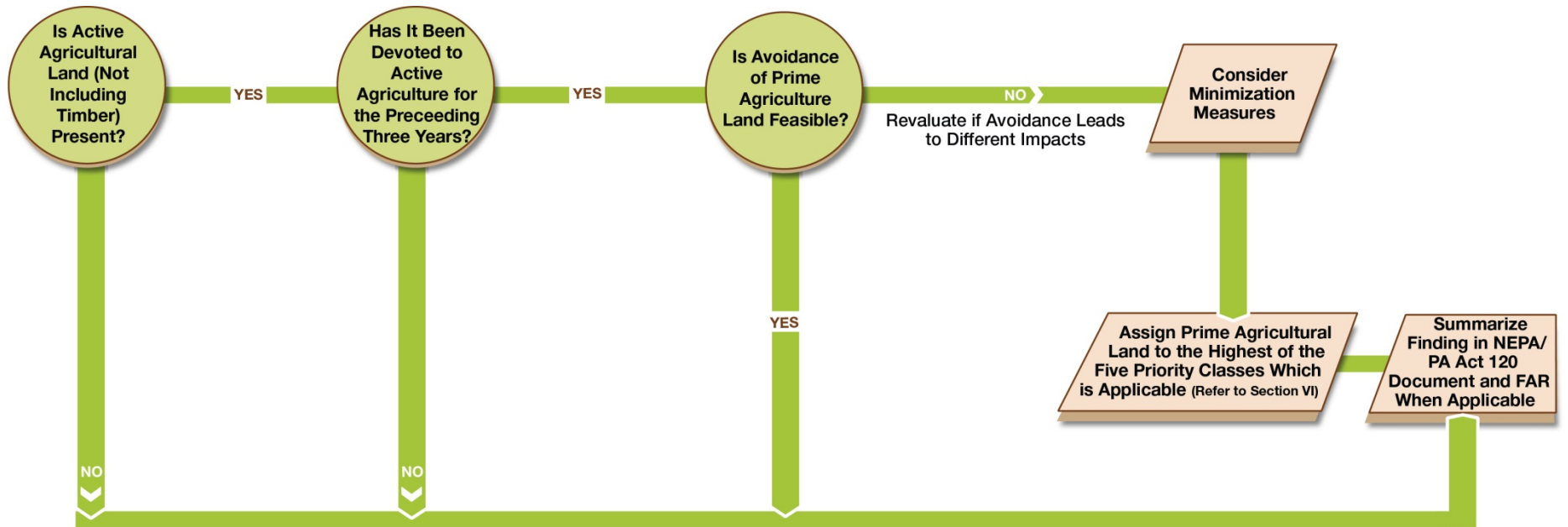
NOTE: A technical file should be created to document all information collected and decisions made regarding agricultural resources.

Figure 2. Act 100/Act 43 Process Overview



NOTE: A technical file should be created to document all information collected and decisions made regarding agricultural resources.

Figure 3. ALPP Process Overview



NOTE: A technical file should be created to document all information collected and decisions made regarding agricultural resources.

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The potential presence of agricultural resources is verified during scoping. Using the LPN Level 2 screening form as a beginning step, this may be done by a combination of desktop research and the scoping field view. Information that may be reviewed from the District's office includes soil surveys, lists of prime and statewide important farmland soils, comprehensive plans, lists of ASAs in the state, aerial photography, and other relevant GIS data. Information to be collected during the scoping field view may include land in agricultural production (cropland, pastureland, vacant herbaceous land), livestock, agricultural facilities, and agricultural equipment.

The project team will use information regarding the type of project and the presence of potential agricultural resources to determine the appropriate agricultural resources evaluation(s) required for each project. Refer to **Sections IV – VI** for additional information on determining the analyses required.

2. Data Collection and Impact Assessment

In order to demonstrate a generalized process, data collection and impact analysis are presented in this chapter as one step in the evaluation process. However, this step may actually be comprised of a series of activities conducted throughout the life of a project. Beginning in planning, LPN Level 2 screening forms utilize GIS layers to preliminarily identify agricultural resources. For CE projects, additional data collection and impact assessment is usually conducted once during the project, often as part of the scoping process. All projects are scoped according to Section 3.2 of DM1-B on Engineering and Environmental Scoping (to build upon the data collected during planning and documented in the LPN Level 2 Screening Form). For EA/EIS projects, this step may include additional preliminary data collection and impact assessment, and detailed data collection and impact assessment. In general, if a project requires the evaluation of Preliminary Alternatives and Detailed Alternatives, data collection will be divided into two phases as well. The phases of alternative development are detailed in [Design Manual 1-B](#).

Preliminary data should be collected in association with the preliminary alternatives analysis phase of the NEPA/PA Act 120 process and should build upon the information gathered through LPN and during scoping. For preliminary data collection, existing data sources are examined in the study area to identify potential agricultural resources. The information is used to develop avoidance alternatives during the preliminary alternatives stage of an EIS (or EER), or to determine the need for the evaluations during the scoping phase of an EA, EER, CE or ED. An initial determination is made as to whether FPPA, Act 100, Act 43, or ALPP will apply. FPPA only applies to federal actions and would not apply to an EER or ED.

[Table 3](#) identifies various types of agricultural data and common sources of that data. Multiple organizations may provide the same information and data. Contact information for the agencies listed in [Table 3](#) is found in the appendices or through the hyperlinks provided.

Table 3: Agricultural Data and Sources of Information

Data	Sources of Information
Aerial photographs, Digital Orthophoto Quadrangles (DOQs)	PennDOT MPMS IQ USDA Farm Service Agency Conservation District County or Regional Planning/GIS Agency PA DCNR Geological Survey Library Pennsylvania Spatial Data Access (PASDA) – for DOQs US Geological Survey - for DOQ Google Earth, Google Maps, Bing, other internet sites providing aerial imagery
Commodity/conservation programs, i.e. Conservation or Wetland Reserve Programs (CRP, WRP)	USDA Farm Service Agency Property owners/Farm operators
Preserved farmland or Easements (Act 43 or Act 442)	County Agricultural Preservation Board (Refer to Appendix 6) Private Conservation Organizations (Refer to Appendix 7) Local municipality County or Regional Planning/GIS Agency PA Department of Agriculture Farmland Preservation (for Act 43) PA Department of General Services, Bureau of Real Estate (for Act 442) Property owners/Farm operators MPMS IQ
Preserved farmland or Easements – federally funded through USDA-NRCS ALE Program	USDA-NRCS PA State Office (Refer to Appendix 2)
Agricultural Security Areas (ASAs)	Local municipality County Recorder of Deeds County or Regional Planning/GIS Agency PA Department of Agriculture, Bureau of Farmland Preservation Property owners/Farm operators
Preferential tax assessment lands (Act 319 - Clean and Green - or Act 515)	County Tax Assessor’s Office (for Act 319) County Recorder of Deeds (for Act 515) County or Regional Planning/GIS Agency Property owners/Farm operators
Effective agricultural zoning	Local municipality County or Regional Planning/GIS Agency
Prime or Unique farmland, Farmland of statewide or local importance	USDA NRCS Web Soil Survey (Refer to Appendix 10 for an overview of using the Web Soil Survey) County NRCS office MPMS IQ
Capability Class I, II, III, or IV soils	USDA NRCS Web Soil Survey Local Soil Survey, available from county NRCS office

County and regional planning agencies are an excellent source of digital data as Geographic Information Systems (GIS) are more widely used by planning agencies to map existing resources. *If GIS layers of agricultural data are obtained, the original source of the data should be determined, as well as when the information was last updated.* It may be necessary to contact the original source of the information in order to update and verify information. This is especially important with ASAs and preserved farmland.

Aerial photographs/DOQs - Aerial photographs allow for quick, visual identification of land in agricultural production within the study area. Digital orthophoto quadrangles (DOQs) are a digital source of aerial photography. A review of aerial photography is usually essential for large projects with extensive agricultural resources. For smaller projects, it may be appropriate to proceed directly to field reconnaissance. There are multiple internet search engines that also provide aerial/satellite photographs at no cost and can be a good starting point to determine if active agricultural land is present within a project area. Aerials should be as recent as possible. However, a review of aerial photographs taken over time often provides a history of the land use.

Field views - For most projects, a "windshield survey" will suffice. In situations where farmland cannot be observed from the road, a limited pedestrian reconnaissance may be needed. If landowners have not yet been presented with intent-to-enter letters, the identification of productive agricultural uses for inaccessible properties will need to rely on aerial photo review and coordination with the Farm Service Agency (FSA) and Cooperative Extensions.

During the field reconnaissance, researchers should note particular parcels as cropland, pasture, hayfield, or other agricultural uses. The field observations will allow the researchers to verify or clarify information obtained from background research. Ideally, all land in agricultural production would be identified at an early stage. However, some marginal types of productive farmland, such as small hayfields on residential lots, may not be identified until interviews with property owners and farm operators.

The purpose of identifying resources and collecting information is to quantify the direct and indirect impacts of the project on agricultural resources. Information obtained is both qualitative and quantitative in nature. It is important to determine if the farmer needs to cross any impacted roads or bridges for access to fields and/or equipment. The results of the data collection and impact assessment will associate agricultural resources with particular land owners and operators, farming practices, and production.

Information collected from the various sources should be used to prepare the environmental features mapping for the project. The mapping should depict the approximate boundaries of the agricultural resources that act as constraint thresholds (resources that would inhibit the construction of an alternative in a particular area). Land in agricultural production and prime agricultural land (as denoted by the ALPP) will always be considered constraint thresholds. Agricultural land boundaries should correspond to the limits of active land identified through aerial photo review, agency coordination, and field reconnaissance and should be identified with a particular farm operation. Prime agricultural land should be depicted separately from PAL. Although the resources are similar, each is a separate regulatory scheme. Different types of prime agricultural land (easements, ASAs, special tax status, etc.) may be represented by different graphical elements (i.e. different line types or color). Since agricultural parcels often

follow property lines, constraints base mapping should illustrate tax parcel boundaries whenever possible.

The information collected during the preliminary data collection stage should be used in preparing the overall environmental features mapping for the project.

During the detailed data collection, the preliminary data is verified and updated through site visits, interviews with landowners and farm operators, and coordination with various agencies such as the PDA, NRCS, and the FSA. The impacts to the identified agricultural resources are evaluated for the Detailed Alternatives Analysis. Avoidance and minimization alternatives are also evaluated, and the types of agricultural resource documentation and coordination needed are verified at this time.

3. Avoidance and Minimization Measures

Avoidance and minimization measures should be considered as different alternatives are compared, as well as after the selection of a preferred alternative. Minimization of impacts to individual farms needs to be considered after the identification of a preferred alternative, and could include design measures such as providing new access to farm parcels. Minimization measures need to be developed through detailed coordination with property owners and farm operators.

An avoidance alternative that either avoids or results in substantially less impact to productive agricultural land or prime agricultural land should be evaluated. If an avoidance alternative exists that is reasonable and prudent (meets the project needs and avoids substantial impacts to other resources), the alternative should be chosen and the agricultural resource evaluation process documented. If such an alternative is not prudent and reasonable, clear documentation regarding why it was dismissed should be maintained in a technical file for use later in the agricultural resources evaluation process as necessary. This information is especially important if a project must go to ALCAB (see [Section V](#) for additional detail on preparation for ALCAB). Additionally, an ALPP alternatives analysis must be documented in the NEPA document. PennDOT's policy, when ALPP is applicable and a project is exempt from ALCAB, is to select an avoidance alternative, if one exists, that meets the project needs and doesn't involve unreasonable impacts to other sensitive environmental features (natural, cultural, or socioeconomic resources).

Active agricultural land may be present within the project area and not be directly impacted by the proposed project or be minimally impacted. It is still important to consider ways to avoid indirect impacts and minimize disturbance to these properties, especially with projects involving a detour or where a farm is divided by a roadway and/or bridge. Several questions to consider include:

- Do farmers have their own waterway crossing to use if a detour is implemented?
 - If not, can they share a crossing with another farmer?
 - If not, can the detour be scheduled for a time when less access to fields is required? (usually winter and summer)
- Do farmers need access for equipment to turn into fields? (gap in the guiderail)
- What temporary means are needed to keep cattle out of construction areas?

- How can cattle be accommodated under a bridge, but be kept out of a stream?
- Is a farm owned by the Plain Sect and if so does it require more space for access by a four-horse team?

Additional questions for farmers/agricultural land property owners/operators in the project area are included in [Figure 6. Sample Interview Form](#).

4. Documentation of Findings

This step consists of documenting the evaluation procedures, findings, and results. In general, documentation for all projects will require a summary of the evaluation and findings in the appropriate NEPA/PA Act 120 document and the technical support data file. References should be made to the technical support file for additional information beyond what is included in the NEPA/PA Act 120 document. No attachments are required in the CE Expert System for agricultural resources. Depending on the type of project and level of involvement with agricultural resources a FAR may be required. An FPPA Form AD-1006 will be required for any federally funded project that impacts FPPA farmland. A technical file should be created to document all information collected and decisions made regarding agricultural resources.

5. ALCAB Coordination When Applicable

PennDOT is required to request an ALCAB ruling prior to condemnation of PAL in accordance with Act 100 and Act 43 ([Table 1](#)). Projects involving improvements to existing roadways such as, but not limited to, widening, elimination of curves and reconstruction are exempt from Act 100 and Act 43, but all other projects must comply with these laws ([Table 2](#)). ALCAB coordination involves submitting the documented findings in a FAR and presenting the findings at an ALCAB hearing. [Section V](#) discusses the extensive coordination and preparation required for an ALCAB hearing.

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SECTION IV. FARMLAND PROTECTION POLICY ACT (FPPA) EVALUATION

The Farmland Protection Policy Act (FPPA) requires an evaluation of FPPA farmland for *federally funded projects*. FPPA farmland is prime farmland, unique farmland, and additional farmland of statewide or local importance as defined by the NRCS *based upon underlying soil types*. These types of farmland are protected by the [FPPA of 1981 \(7 USC 4201\)](#) as implemented by the FPPA of 1981; Final Rule of July 5, 1984 and amended June 17, 1994 ([7 CFR 658](#)), *regardless of whether or not the farmland soil areas are in active agricultural use*. However, soils that are considered to be already in or committed to urban development or water storage are not protected under the Act.

[Figure 4](#) expands on [Figure 1](#) and indicates the process to follow for projects requiring an evaluation of FPPA farmland. The steps outlined in [Figure 4](#) are described in detail below.

FPPA procedures apply to all federally funded transportation projects, including improvements to existing facilities and construction of new facilities. FPPA compliance must be demonstrated prior to the NEPA decision (ROD for EIS, FONSI for EA, or CE approval for CEE). The [Farmland Conversion Impact Rating \(FCIR\) Form AD-1006 \(typically used for bridge and intersection type projects\)](#) and [Form NRCS-CPA-106](#) (for corridor type projects) are the primary documentation tools for the FPPA evaluation.

A. FPPA Exclusionary Conditions

FPPA compliance is fulfilled and completion of the FCIR Form AD-1006 or Form NRCS-CPA-106 is not necessary for those federally funded actions that meet any of the following exclusionary conditions:

- Projects where the required right of way (ROW) does not contain any prime or unique farmland soils, or farmland soils of statewide or local importance.
- Transportation projects specifically authorized for national defense purposes. This includes such projects as access roads or bridges that serve a national defense purpose or facility. The National System of Interstate and Defense Highways are not included under this condition.
- Projects that do not result in the conversion of prime or unique farmland soils, or farmland soils of statewide or local importance (highway or bridge improvements that can be completed within the existing ROW).
- Temporary construction impacts that do not result in the permanent conversion of prime or unique farmland soils, or farmland soils of statewide or local importance.
- Projects that affect areas mapped as prime or unique farmlands, or farmlands of statewide or local importance that are already in or committed to urban development or water storage. Farmland already in urban development or water storage is defined by the FPPA as land:
 - With a density of at least 30 structures per 16 hectare (40 acre) area (0.75 structure/acre);

- Identified as "urbanized area" on a Census Bureau Map ([2010 Census Urban Area Reference Maps](#))
- Identified as an "urban" area mapped with a tint overprint on a United States Geological Services topographic map; and
- Identified as "urban-built-up" on a USDA Important Farmland Map.

If FPPA farmland is not present or if the project is excluded from FPPA jurisdiction, this should be documented in the NEPA document.

B. On-Alignment Bridge Replacement Exemption

In addition to the exclusionary conditions noted above, the policy of PennDOT and the Pennsylvania Office of the NRCS is that on-alignment bridge replacements are not subject to the provisions of the FPPA as per part 523.11 [Farmland Protection Policy Act Manual](#), Subpart C. Activities Not Subject to the Provisions of the FPPA – 10. Restoration, maintenance, renovation, or replacement of existing structures prior to the time of Federal assistance¹. If a project does not meet any of the exemptions noted above, but is an on-alignment bridge replacement, document in the NEPA document that bridge replacements on-alignment are considered exempt from the FPPA provisions as per part 523.11 Farmland Protection Policy Act Manual, Subpart C. Activities Not Subject to the Provisions of the FPPA – 10. Restoration, maintenance, renovation, or replacement of existing structures prior to the time of Federal assistance.

C. Small Acreages Exemption

In addition to the exclusionary conditions noted above and the on-alignment bridge replacement exemption, there is one additional exemption that applies to transportation projects. As per part 523.11 Farmland Protection Policy Act Manual, Subpart E. Other Exemptions – 1. Small acreages (i.e. 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvement to existing linear projects, such as highways.

A Land Evaluation and Site Assessment (LESA) system uses a value for land evaluation and combines it with a value for site assessment to determine the total value of a specific site for agriculture. The higher the total value of a site, the higher the capabilities of that site for agriculture. The LESA system helps units of government to facilitate the identification and protection of important agricultural land and assists in implementing farmland protection policies. A LESA system is in place in Pennsylvania, so the above noted small acreages exemption is applicable statewide.

¹ That is, if the structure was already in place and PennDOT is using federal funds to repair or replace the structure then it is "prior to the time of federal assistance". In contrast, this exemption would not apply to a federally-funded project to construct a new bridge on new alignment.

Document in the NEPA document that the project fits the small acreages exemption as per part 523.11 Farmland Protection Policy Act Manual, Subpart E. Other Exemptions – 1. Small acreages (i.e. 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange) where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions.

D. Projects Subject to FPPA's Jurisdiction

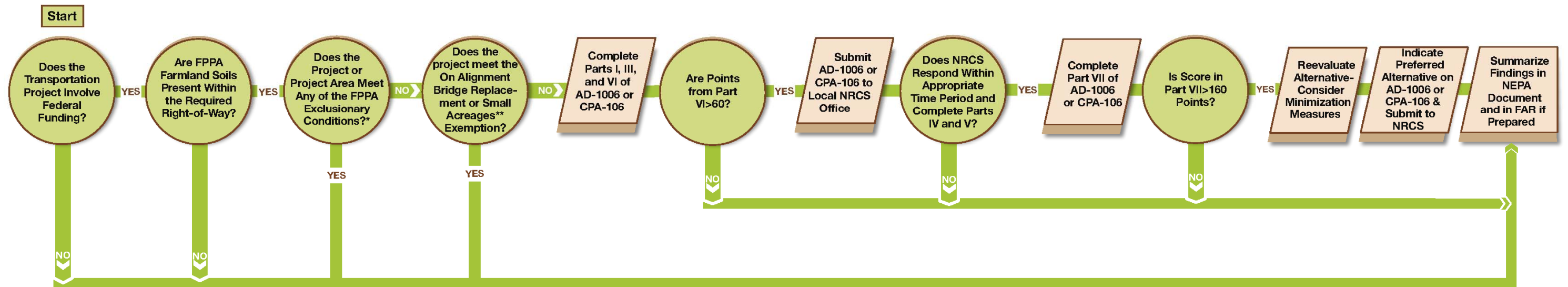
Projects subject to the FPPA's jurisdiction should complete the analysis described herein.

FPPA farmland consists of those *soil units* classified by the NRCS as prime farmland, unique farmland, or farmland of statewide or local importance (land does not have to be in active agricultural use). The definitions of FPPA farmland are included in [Section II](#). Information specific to the FPPA farmland evaluation may be obtained from the following secondary sources of data:

- County Soil Survey — A review of the county soil survey will result in the identification of soil mapping units. Soil surveys are obtained from the [local NRCS office](#) or are available online through the [USDA NRCS Web Soil Survey](#) (refer to **Appendix 10** for an overview of using the Web Soil Survey). Some counties may have soil information available online through their county GIS database.
- Important Farmland Lists — Once the soil mapping units in the study area are identified, the units are compared against the list of important farmland soils available from the local NRCS office. The lists provide a breakdown of the soil mapping units classified as prime farmland soils, unique farmland soils, farmland soils of statewide importance, and farmland soils of local importance. This information can also be accessed through the USDA NRCS Web Soil Survey.
- Important Farmland Maps — Each map depicts areas of prime and statewide important farmland soils for a particular county, as well as unique and locally important farmland soils. The important farmland maps are useful for quick visual identification of the potential FPPA farmland in a project study area. The important farmland maps are intended to be a supplement to the soil surveys and important farmland soils lists. The local NRCS office should be contacted to determine if an Important Farmland Map exists for the project area.

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Figure 4. FPPA Evaluation



***FPPA Exclusionary Conditions**

1. Required ROW does not contain any prime or unique farmland soils or farmland soils of statewide importance.
2. Transportation projects specifically authorized for national defense purposes.
3. Projects that do not result in the conversion of prime or unique farmland soils, or farmland soils of statewide or local importance (project can be completed within existing ROW).
4. Temporary construction impacts that do not result in the permanent conversion of prime or unique farmland soils, or farmland importance.
5. Farmland soils already in or committed to urban development or water storage:
 - Land with a density of at least 30 structures per 16 hectare (40 acre) area (0.75 structure/acre)
 - Land identified as “urbanized area” on a Census Bureau Map
 - Land identified as “urban” area mapped with a tint overprint on a USGS topographic map
 - Land identified as “urban-built up” on a USDA Important Farmland Map

****Small Acreages Exemption**

Small acreages (i.e.) 10 acres or less per linear mile or 3 acres where there is a project for an existing bridge or interchange where a statewide, local, or tribal LESA system has been approved by the state conservationist. Acreage includes both direct and indirect conversions. These exemptions are to avoid new construction and encourage improvements to existing linear projects, such as highways.

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Decision Making Point: Is FPPA Farmland Present?

Once the FPPA farmland soils areas have been identified, the information should be placed upon project constraints mapping to determine if the project impact area will affect this resource and/or to determine whether the farmland soils are in areas already in or committed to urban development or water storage and therefore exempt from FPPA. If FPPA farmland soil is present, the conditions for FPPA project compliance should be reviewed. If the project meets any of the exclusionary conditions listed previously in this section, compliance is fulfilled.

If the project will affect FPPA farmland and does not meet any exemption criteria, a FCIR (Form AD-1006) must be completed. Copies of the form and detailed instructions for completing the form are available on [USDA's website](#). The procedure for completing and processing Form AD-1006 is outlined in the following paragraphs. [Form NRCS-CPA-106](#) should be used for corridor type projects. *The general instructions that follow are applicable for both forms.* Forms AD-1006 and NRCS-CPA-106 with detailed instructions on completing are included in [Appendix 4](#).

The first step in preparing the FCIR is to complete Parts I, III, and VI of Form AD-1006 or NRCS-CPA-106. Parts II, IV, and V will be completed by the NRCS, if necessary.

Part I of the form consists of background information. Part III of the form consists of each alternative's/site's land impacts, including: total acres of land to be converted directly, total acres of land to be converted indirectly, and the total acres in the site. Include all acres in the project study area to be converted, farmland and non-farmland.

NOTE: When calculating acres to be converted, include both acres to be directly converted by the proposed project, as well as those areas that would be indirectly converted. Indirect conversions include areas not being directly converted, but that would no longer be capable of being farmed after the conversion due to access restrictions or becoming inaccessible or impractical to farm due to small size or irregular shape. The determination of inaccessible parcels should be made in conjunction with the District ROW Unit. The determination of what constitutes impracticable to farm is made on a case-by-case basis. The type of farming operation, type of equipment used by the operator, and the shape of the parcel play a role in the determination. Utility relocations, stormwater management ponds and other such activities or features required for the project should be included in the direct impact calculations.

Part VI consists of the project site assessment and requires the use of specific Site Assessment Criteria from the regulations [\(7 CFR 658\) dated July 5, 1984](#). These assessment criteria consider information regarding farming practices in and around the project site.

Information needed to address the Site Assessment Criteria includes:

- Land use immediately adjacent to and within a 1-mile radius of the study area;
- The amount of study area which has been farmed (managed for a scheduled harvest or timber activity) for more than five of the last ten years;
- Land subject to state, unit of local government, or private programs to protect farmland [as defined in 7 CFR 658.2(d), (e)];
- The farm unit size within the study area as compared to the county average;
- The amount of land left nonfarmable;
- The presence of local farm support services and markets;
- The presence of well-maintained, on-farm investments;
- The project's effects on the demand for farm support services, which could potentially jeopardize the existence of such support services and the viability of farms in the study area; and
- The potential for conversion of surrounding farmland to nonagricultural use.

Some of the information needed to complete Part VI of the FCIR may be collected in conjunction with the operator interviews conducted as part of the procedures outlined in [Section V](#) and [VI](#) of this handbook. The remainder can be obtained through consultation with the local FSA, NRCS, Cooperative Extension, or Planning Commission.



Decision-Making Point: Are Points From Part VI Greater or Less than 60?

If an AD-1006 or NRCS-CPA-106 form needs to be completed, and if the total Site Assessment score for Part VI is less than or equal to 60 points for the Preferred Alternative, measures to avoid or minimize impacts to FPPA farmland are not necessary. The Preferred Alternative should be indicated on Form AD-1006 or Form NRCS-CPA-106 and the form should be maintained in the project's technical file. This fulfills compliance with the FPPA. No response from NRCS is required.

If the total score for Part VI is more than 60 for the Preferred Alternative, then the FCIR must be submitted to the local NRCS office requesting the completion of Parts II, IV, and V. **Provide contact information with submittal.**

The method (or rationale) for the assessment rating point assignment and impact assessment used to complete Form AD-1006 or Form NRCS-CPA-106 should be developed and maintained in the project's technical file. All data calculations should be easily reproducible.

For those projects with points greater than 60 from Part VI, submit the rationale, a map showing the location of the proposed project alternative(s) and other appropriate descriptive information with the partially completed Form AD-1006 or Form NRCS-CPA-106 to the local NRCS office. Mapping of the proposed alternatives and agricultural resources in the project study area may also help facilitate the FPPA review. The method (or rationale) for the assessment rating point assignment should also be submitted to the NRCS. A point of contact

for NRCS to send its response must also be included. An example of a cover letter, completed form, and method/rationale submittal is included in [Appendix 4](#).



Decision-Making Point: Does the NRCS Respond Within the Appropriate Time Period?

Under 7 CFR 658, the NRCS has ten working days (or 30 working days if a site visit or land evaluation site assessment is needed to complete the response) from the date of receipt to respond to a request for evaluation. *When a response has not been received within the ten-day time frame, given consideration to mailing time, compliance with the FPPA has been fulfilled.* The NEPA document should continue to address farmland impacts and identify alternatives to minimize those impacts. The document should summarize coordination efforts with the NRCS and should contain statements that the NRCS failed to provide the land evaluation (relative value) information within ten days, and therefore, the proposed project is in compliance with the requirements of the FPPA. Results of the FPPA evaluation must also be documented in the FAR, if a FAR is prepared.

If the NRCS responds within the required time limit, then the project team must complete Part VII of Form AD-1006 or Form NRCS-CPA-106. This is done by adding the points from Part V - Land Evaluation Criterion (Relative Value of Farmland to be Converted) with Part VI - Total Site Assessment Points.



Decision-Making Point: Is the Total Score in Part VII Greater than or Equal to 160 Points?

If the total score for the Preferred Alternative is less than 160 points, then it is not necessary to consider additional alternatives or minimization measures to reduce impacts to or avoid FPPA farmland. The project team should indicate the Preferred Alternative on the Form AD-1006 and submit it to the NRCS. This fulfills compliance with the FPPA.

If the total combined score for the Preferred Alternative is greater than 160, the District must consider measures to minimize farmland conversion. When feasible, such measures may include: the use of land that is not farmland, the use of existing facilities, and the use of alternate sites, locations, or designs that meet the project needs but convert less FPPA farmland. In cases where other proposed alternatives score less than 160 points, the project team must consider the feasibility of choosing one of these alternatives.

If it is necessary to select an alternative having a combined score of 160 points or greater after reevaluating alternatives, the appropriate NEPA document should clearly substantiate the reasons for the selection and identify all practicable measures to minimize impacts to FPPA farmland.

Once minimization has been considered, the Preferred Alternative should be indicated on Form AD-1006 or Form NRCS-CPA-106, and the form should then be submitted to the NRCS for informational purposes. This fulfills compliance with the FPPA. The procedures should be documented in the appropriate NEPA document and technical files. The information in the NEPA document should include a description of the existing conditions of the resource, proposed impacts to the resource, minimization measures (if applicable) and a coordination summary.

Although the FPPA analysis may include lands outside of ALCAB jurisdiction, PennDOT has agreed to include a FPPA summary and a copy of Form AD-1006 or Form NRCS-CPA-106 in the FAR for ALCAB proceedings. If a project scores less than 60 points and the project is likely to go to ALCAB, send Form AD-1006 or Form NRCS-CPA-106 to the NRCS and request that the form be completed and signed for inclusion in the FAR.

Information to be placed in the technical support data file for FPPA coordination may include the following:

- NRCS list and maps of prime, unique, statewide important, and locally important farmland soils present within the project area;
- Farmland Impact Conversion Rating (Form AD-1006 or Form NRCS-CPA-106) and coordination between PennDOT and the NRCS, as necessary;
- Methods (or rationale) and results of impact assessment used to complete Form AD-1006 or Form NRCS-CPA-106 (all calculations should be easily reproducible, and individuals responsible for preparation and review should be identified);
- Pertinent correspondence, meeting minutes, and field views documentation; and
- A list of reference materials.

SECTION V. ACT 100/ACT 43 (ALCAB) EVALUATION

A. Evaluation Process

PennDOT may not condemn land in agricultural production for projects involving new transportation facilities without approval from the ALCAB. Projects that involve the construction of new highway facilities are subject to Act 100 and Act 43 jurisdiction. Projects involving airports are subject to Act 43.

Productive agricultural land (PAL) is defined as any land used for production, for commercial purposes, of crops, livestock, and livestock products. Agricultural production includes the processing or retail marketing of such crops, livestock, or livestock products if more than 50 percent of such processed or merchandised products are produced by the farm operator. PAL is protected under Act 100 and Act 43. Crops, livestock, and livestock products that are protected by Act 100/Act 43 include, but are not limited to, the following items:

- Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;
- Fruits, including apples, peaches, grapes, cherries, and berries;
- Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions, and mushrooms;
- Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
- Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, and fur; and
- Aquatic plants and animals and their by-products.

PennDOT policy also considers barns and other agricultural buildings, land lying fallow due to crop rotation, and subsistence farms where the farm operator has land in agricultural production for his own “subsistence” use rather than primarily for commercial purposes. Land that is fallow due to participation in USDA conservation reserve enhancement programs, nutrient management programs, subsidy programs, or commodity support programs is considered to be land in agricultural production because it would be in production under normal circumstances. Land farmed by tenant farmers for production, for commercial purposes, is also considered PAL. Land used for the purposes of growing timber is not considered land in agricultural production under any governing laws.

NOTE: Where PAL can be acquired amicably, an ALCAB hearing is not necessary.

In an ALCAB proceeding, PennDOT must meet the *ALCAB Test*. The ALCAB Test involves the presentation of data in the form of an alternatives analysis to establish that there is *no reasonable and prudent alternative to the utilization of PAL for the project*. Projects requiring ALCAB coordination should follow the process described below and outlined on [Figure 5](#). An alternative is considered prudent if it meets the project needs, and an alternative is considered reasonable if it does not result in substantial environmental (natural, cultural, or socioeconomic) impacts.

Regardless of the timing of the ALCAB hearing (discussed in detail later in this section), PennDOT encourages early consultation with the PDA as well as the farm operators and farm owners who might experience impacts resulting from any project subject to a NEPA/PA Act 120 decision, as this information is often a critical component of the decision-making process. Early coordination provides reasonable assurances that the proposed project can be constructed, has considered measures to minimize harm, and has taken public comment into account.

[Table 2](#) provides examples of projects that may be subject to Act 100 and Act 43 and will therefore require ALCAB approval. In the Pennsylvania Turnpike Commission Westmoreland Co., Total Reconstruction and Widening between Mileposts 67 and 75 adjudication (2007) ([Appendix 9](#)), ALCAB reaffirmed that they “do not have jurisdiction unless there is a significant diversion beyond mere widening (i.e. the project encompasses more than and goes beyond, the existing roadway). Examples of significant diversions beyond mere widening may include the complete relocation of highways, the addition of an interchange involving new ramps and connector roads, and work that occurs outside of existing right of ways.”

If there is a question regarding whether the limits of a diversion is significant and Acts 100/43 are applicable, a request for Legal Opinion should be made to the Office of Chief Counsel accompanied by plan sheet documentation/ROW limits and a project description ([Appendix 3](#)).

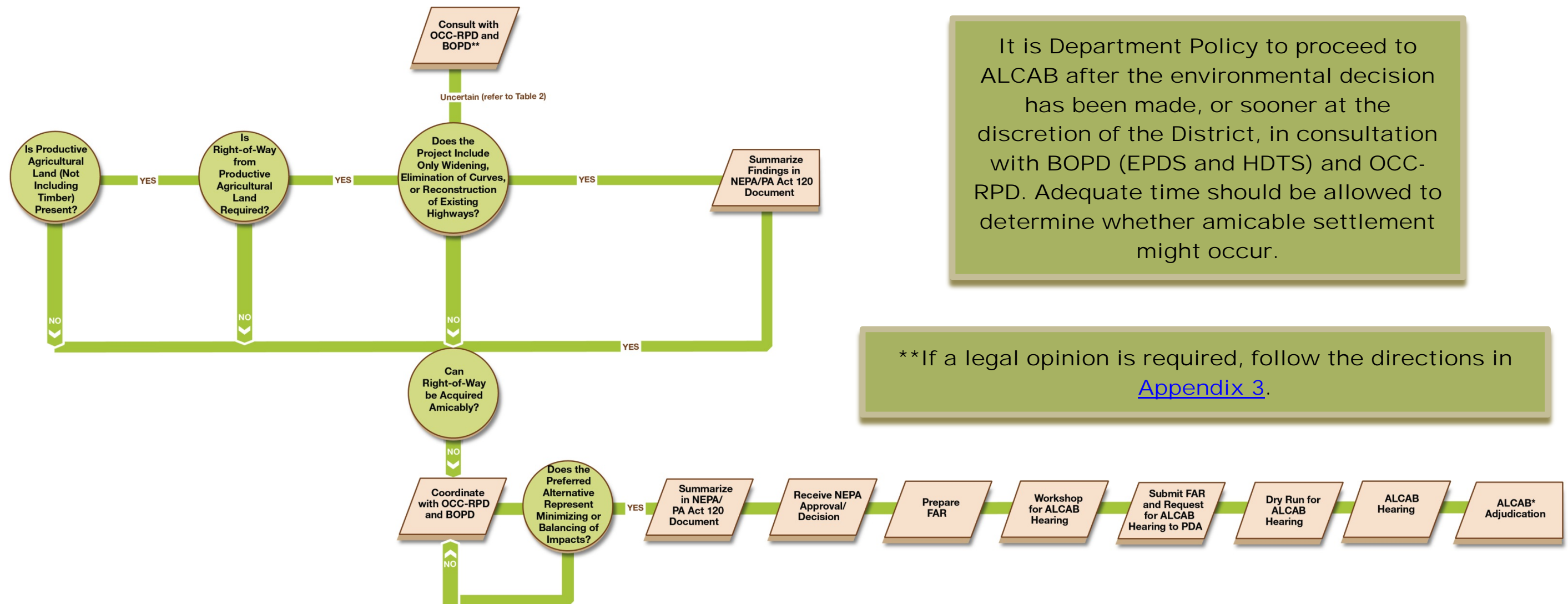
All projects subject to ALCAB jurisdiction are also subject to the ALPP. Therefore, information on the presence of and impacts to prime agricultural land must be evaluated in the FAR and NEPA/PA Act 120 document (ALPP is discussed in [Section VI](#)). It is important to keep in mind that Section V refers to *PAL* which is defined as any land used for production, for commercial purposes, of crops, livestock, and livestock products, including the processing or retail marketing of such crops, livestock, or livestock products if more than 50 percent of such processed or merchandised products are produced by the farm operator.

NOTE: Based on the definition of PAL, Act 100 and Act 43 do not protect subsistence farmers. These laws protect productive agricultural land that involves a commercial transaction, and most subsistence farmers do not sell their products.

As a matter of policy, PennDOT seeks ALCAB approval for subsistence farmers because they are protected under the ALPP and the ALPP priority classifications are considered in the ALCAB proceedings.

Figure 5. Act 100/Act 43 (ALCAB) Evaluation

The primary laws behind this evaluation are Pennsylvania Act 100 and Act 43. All data collection, analysis, and documentation must be conducted to address the requirements of Act 100/Act 43 and, if necessary, prepare the Farmlands Assessment Report (FAR) and make a case before the Agricultural Lands Condemnation Approval Board. The information required by the Farmland Protection Policy Act and the Agricultural Land Preservation Policy will also be presented in the FAR and at the subsequent ALCAB hearing.



It is Department Policy to proceed to ALCAB after the environmental decision has been made, or sooner at the discretion of the District, in consultation with BOPD (EPDS and HDTS) and OCC-RPD. Adequate time should be allowed to determine whether amicable settlement might occur.

**If a legal opinion is required, follow the directions in [Appendix 3](#).

Request an update to a legal opinion if the project design changes or effects to PAL change.

*In the event impact changes occur and more land goes into agricultural production or the project impacts increase, return visits to ALCAB may need to occur. This should be avoided if possible.

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1. Data Collection

The majority of projects that go to ALCAB are EA and EIS classes of action. These types of projects will generally include both preliminary and detailed data collection. However, some projects that proceed to ALCAB may be CEs or EAs without multiple alternatives. Those types of projects do not require both the preliminary and detailed data collection described below (can proceed directly to detailed data collection).

a. Preliminary Data Collection

Refer to [Section III.B.2. Data Collection and Impact Assessment](#) and [Table 3: Agricultural Data and Sources Information](#) for an overview of data collection methods used for agricultural resources.

Should there be any question regarding whether the land in the study area is considered PAL, the PennDOT BOPD-EPDS should be contacted for its opinion. If there is still a question, contact the OCC-RPD with a formal request for legal opinion as described in [Appendix 3](#).


The initial information collected during LPN, scoping, and preliminary data collection regarding PAL and other environmental features should be used in the development of alternatives. This involves overlaying the footprint of preliminary alternatives on the environmental features mapping and assessing the direct impacts upon each agricultural resource. Evaluations of impacts to agricultural resources should be described in a narrative form, with quantitative results whenever possible, but not ignoring the qualitative factors as appropriate. An actual determination at this point as to the continued viability of the farm operation or indirect impacts may not be possible. At a minimum, the impacts will include the extent of the resource within the anticipated required ROW. Discussions of impacts should be presented according to resource, such as:

- Preserved farmland (Act 43, Act 442, and other deed restrictions);
- ASAs;
- Farmland enrolled for preferential tax assessment;
- Effective agricultural zoning districts;
- Unique and capability Class I, II, III, and IV soils; and
- Other land in agricultural production.

Results of this assessment are combined with the impact results from all the socioeconomic and environmental features identified at this stage of the project. The combined impact assessment is intended to provide the project design team with information needed to make decisions about alternative development, refinement, and/or dismissal. All methods and results of impact assessment should be carefully recorded and kept in the project file.

[Table 4A](#) illustrates a sample worksheet that should be utilized to document the application of the ALCAB Test to the Preliminary and Detailed Alternatives. This worksheet should be initiated during the analysis of Preliminary Alternatives and completed during the impact analysis of Detailed Alternatives. This form is designed to provide consistency with the alternatives analysis conducted during the environmental decision process and to assure continuity between Preliminary Engineering and a Final Design ALCAB hearing. It will be utilized in the preparation of the FAR and ALCAB testimony and presentation.

The results of this impact analysis will be used as part of the evaluation of the ALCAB Test to establish that there is *no reasonable and prudent alternative to the utilization of PAL for the project*. The ALCAB Test is used to evaluate both the Preliminary Alternatives and the Detailed Alternatives. Supporting documentation for the rationales/reasons for determining an alternative as not prudent or not reasonable should be maintained in the technical file so that, during an ALCAB hearing in Final Design, it is clear as to why alternatives were dismissed and this can be amply supported and explained.

Table 4A: ALCAB Test Worksheet/Alternatives Development and Analysis						
Alternatives	Preliminary Alternatives Analysis	Detailed Alternative Studies	Preferred Alternative	Summary of Analysis	Does Not Meet Project Need (Not Prudent)	Excessive Impacts (Not Reasonable)
	Timeline 					
No-build				Considered throughout EIS process; does not meet project needs for corrected highway deficiencies, safety improvements, or regional system linkage	X	
Transportation System Management				Does not meet project needs without roadway construction or reconstruction associated with a "build" alternative		
Alternative A						
Alternative B						
Alternative C						
Alternative D						
Complete as follows: <ul style="list-style-type: none"> • Column 1: List all alternatives • Columns 2 – 4: Reflected as a timeline. Fill in an arrow that indicates the point the alternative was first looked at and the point it was dismissed from further study. • Column 5: Provide the reasons for dismissing the alternative either as not prudent (not meeting project needs) or not reasonable (substantial environmental impacts). Include the most notable environmental impact or issue on which this determination is based. Identify those alternatives that are prudent and reasonable. • Column 6 and 7: Place markers (dots) in each of these columns where applicable (the text in column 5 should support the placement of these markers.) 						

b. Detailed Data Collection for ALCAB Preparation

The purpose of the detailed data collection and analysis is to verify the presence of agricultural resources within the project impact area and to quantify the direct and indirect impacts of the project on those resources. Information obtained during the detailed data collection and analysis

stage of agricultural resources evaluation is both qualitative and quantitative in nature. This stage of evaluation distinguishes between different classes or priorities of agricultural resources identified during preliminary data collection. The results of the data collection and impact assessment will associate those resources with particular land owners and operators, farming practices, and production. The information will also be used to develop avoidance and minimization measures. The refinement process may result in additional field data collection efforts and impact assessment as the project proceeds toward the identification of a Preferred Alternative. Results of detailed data collection should provide the information necessary for assessing specific impacts associated with alternatives retained for detailed study, and direct the project team toward choosing an alternative with acceptable agricultural impacts.

The information collected on the agricultural resources should be presented on project mapping to determine the impacts associated with the project alternative(s). Information regarding conservation easements, agricultural security areas, preferential tax assessment programs, special agricultural zoning, and unique and capability Class I, II, III, and IV soils should be combined with areas of productive agricultural land on plans depicting project alternatives.

Calculations of impacts should be based upon the proposed ROW for the project, taking into account reasonable buffer areas for highway features typically added/addressed in more detail in final design (cut/fill areas, stormwater basins, etc.). Results of this assessment are combined with the impact results from all the socioeconomic and environmental features identified to determine the overall impact of each alternative. Complete the ALCAB Test Worksheet for those alternatives carried through the Detailed Alternatives Analysis. All methods and results of impact assessment should be carefully described and recorded in the project file.

The detailed data collection and impact assessment steps are discussed below:

1. *Tax Parcel Data* - A necessary step is to identify separate blocks of land by ownership. All areas identified as preserved farmland should be verified by means of examining deeds at the County Recorder of Deeds Office (some counties have this information available online). A deed search is a proven way to ascertain the existence of privately held easements within the study area. Tax parcel information for individual properties can be obtained at the County Tax Assessor's Office, or potentially through the county planning department's GIS.

NOTE: The following information* should be obtained for properties affected by alternatives retained for the detailed study:

- *Tax parcel number*
- *Tax parcel owner(s)*
- *Tax parcel acreage; and*
- *Special assessment status under Act 43, Act 515, Act 319, or Act 71*

*Some of this information may have been identified during preliminary data collection. Information collected by surveyors for the project may be a good starting point for collecting this information.

2. *Interview Property Owners* - Owners of land in agricultural production within the study area should be contacted and interviewed. Dialogue with landowners is essential to provide notice of investigations and to obtain detailed information regarding farm operations. Interviewing agricultural landowners serves to verify property ownership, productive status, and current farm operator(s). Farm operation information will need to be collected from the owner if he/she is also the operator, otherwise contact information for the tenant farmer should be obtained. *This step is a requirement for projects that go before ALCAB; it may or may not be necessary for projects that do not go before ALCAB.*
3. *Interview Farmers* - Current farm operators (may not be the owners of the land) should be interviewed about their overall operations and the specific farming practices for agricultural properties affected by the alternatives retained for detailed study. Information regarding the size, type, history, and anticipated future of the agricultural operation should be acquired and recorded. Current farm operators may be tenant farmers and their use of the parcel may be established by a written lease with the property owner or, oftentimes, less (such as a “handshake” deal). Although ALCAB grants permission to condemn the land from the property owner only, it is PennDOT’s policy to include all tenant farmers who are authorized to farm a parcel in the ALCAB proceedings.

If necessary, interviews may be conducted by telephone or mail; *however, in-person interviews conducted at the farm or residence are the most productive.* The interviewer can provide maps or aerial photos for the operator to refer to when describing his or her operation. In addition, the operator can show the interviewer aspects of the operation that he or she might have difficulty describing in words. The operator may also feel more comfortable asking questions regarding the project or agricultural resources evaluation process, and the interviewer may make their own observations of the farm operation. Although the in-person interviews may be somewhat time consuming, the personal aspect often gives the farmer a higher degree of comfort with the project and interview process. *Although this step may be conducted for projects that do not go before ALCAB, it is a requirement for those that do.*

Interviews with current operators can be separated into two levels of interaction:

- Initial operator interview – gather information on the existing conditions of the operation
- Additional operator interviews, as necessary – determine an alternative’s effect on the viability of the operation and gather information to be used in the minimization of harm refinements

Interview forms and mapping will assist the dialogue and ensure that all necessary information is collected during the initial interview. In addition, use of a form will also ensure that consistent information is collected from all farmers. A sample interview form is provided as [Figure 6](#).

Figure 6: Sample Interview Form

Project:	
Interviewers:	Interview Date:
PROPERTY INFORMATION	
Property Owner Name:	
Tax Parcel Number:	
Parcel Address:	
Mailing Address:	
Telephone Number:	
How long has the property been owned by the current owner?	
How long has the property been farmed?	
FARM INFORMATION	
Are you the current farm operator?	Full or Part-time?
If you are not the farm operator, who is?	
Is this the base of the farm operation? If not, where is the base of operation?	
Is your farm your only source of income? Yes ____ or ____ No If no, what is/are your other income source(s)?	
Do you hire farm workers? If so, how many and when?	
Type of farm (crops, livestock, organic, etc.)	
Acres owned and location:	
Acres rented and location:	
Do you own or lease other property within or outside of the project area to use in a farming operation? If yes, where and how much?	
Do you lease any of your land for gas extraction purposes?	
Types of crops grown, acres in each, and typical production yield (average year):	
Note the location of the most productive fields:	
Types and numbers of livestock raised:	
List farm related buildings and their purpose:	
Describe access routes to farm parcels:	
Do you need access for equipment to turn into fields (ex. leave a gap in the guiderail)?	
What farm products do you sell and where?	
Where do you purchase your farm supplies?	
What is the primary source of water and where is it located? Is there more than one? What are they used for (ag, domestic,...)?	

Figure 6: Sample Interview Form (continued)

Is the property served by an on-site sewage disposal unit? If yes, more than one? (locate on map)
Are any field drainage structures located on your property? (locate on map)
Does the property participate in any of the following? If yes, describe.
<i>Agricultural Easements:</i>
ASA:
<i>Deed Restrictions:</i>
What are the future plans for the property?
How does the product get to market?
Are equipment and/or produce stored on property? If so, where is it stored?
What is the largest piece of machinery? What is the size (height, weight) of your largest piece of farming equipment?
Is more room for access required for the use of four-horse teams?
Are you currently required to travel on public roadways to move farm equipment? If yes, please name roadways?
Do you have your own waterway crossing to use if a detour is implemented? If not, can you share a crossing with another farmer?
By what route and at what time of day do you receive pickups and drop offs? (perishables?)
Do you pasture your livestock or use a feed lot/building?
Are temporary means needed to keep cattle or other livestock out of construction area?
Do cattle currently cross under a bridge or through a stream?
Do you have a Nutrient Management Plan in accordance with PA DEP requirements?
In your opinion, how will this project affect your operations?
Will access to farm parcels, to markets, be a problem?
Would dividing the parcels hinder access of livestock to pasture, food and water, supplies, barns, outbuildings, etc.?
If your land were to be bisected, is there a possibility that you would be unable to access certain parcels? If yes, explain.

Information to be collected during the interviews should include, but is not limited to:

- Operator's farming history;
- Operation type (i.e. dairy, beef, poultry, crop);
- Overall operation size (owned/leased acres);
- Base of operation;
- Commodities produced;
- Land farmed inside/outside study area;
- Location of owned versus leased lands;
- Location of equipment and product storage;
- Access routes to farm parcels/fields;
- Future plans for operation;
- Areas of cropland, pasture, hayfield, etc.;
- Acreage included in commodity support or conservation reserve;
- Specific agricultural practices;
- Typical production yield;
- Physical improvements; and
- Water supply.

After collecting information on the operations, the project team should prepare detailed agricultural resource mapping for the alternatives retained for additional study. Information presented on preliminary environmental features mapping should be modified according to the latest information obtained and transferred to working plan sheets for the project alternatives. These new detailed maps will be the basis for the impact assessment. [Figures 7](#) and [8](#) illustrate examples of the agricultural resource mapping used in the FAR and ALCAB hearing.

The boundaries of the PAL should distinguish between different operations and different land uses. The agricultural parcels may differ from tax parcels because they are subdivided by differing land uses. Parcels should be defined as blocks of land in agricultural production, often distinguished by current agricultural use, and farmed by a single operator. All revisions, deletions, or additions to agricultural parcel boundaries resulting from preliminary and/or additional operator interviews should be represented.

Boundaries for prime agricultural land affected by alternatives retained for detailed study should be added to alternative plan sheets illustrating land in agricultural production. The prime agricultural land should be shown by category and should show only the highest priority ranked category for each parcel. Delineating these two types of agricultural resources on a single set of working plans will facilitate impact analysis for land afforded protection under the various farmland preservation laws. [Figure 9](#) illustrates an example of agricultural resources identified by the highest ranked category.

Impact assessment is a dynamic, ongoing process until the Preferred Alternative is identified and, as it is refined. ALCAB approval to condemn is not requested for a specific quantity of acres, but, instead, is requested for the approval to condemn the PAL needed to construct the preferred alternative as presented.

Once the affected agricultural resources have been identified, the direct and indirect impacts associated with each alternative must be measured and recorded. Direct impacts are identified as PAL converted for the preferred alternative in the form of required ROW, mitigation sites, or other areas required for permit conditions. Indirect impacts include remainders of bisected parcels that are left inaccessible or impractical to farm due to small size or irregular shape. The determination of inaccessible parcels should be made in conjunction with the District ROW Unit. The determination of what constitutes impracticable to farm is made on a case-by-case basis. The type of farming operation, type of equipment used by the operator, and the shape of the parcel play a role in the determination. All methods and results of impact assessment should be carefully recorded and kept in the project file.

Figure 7. Sample Graphic for FAR

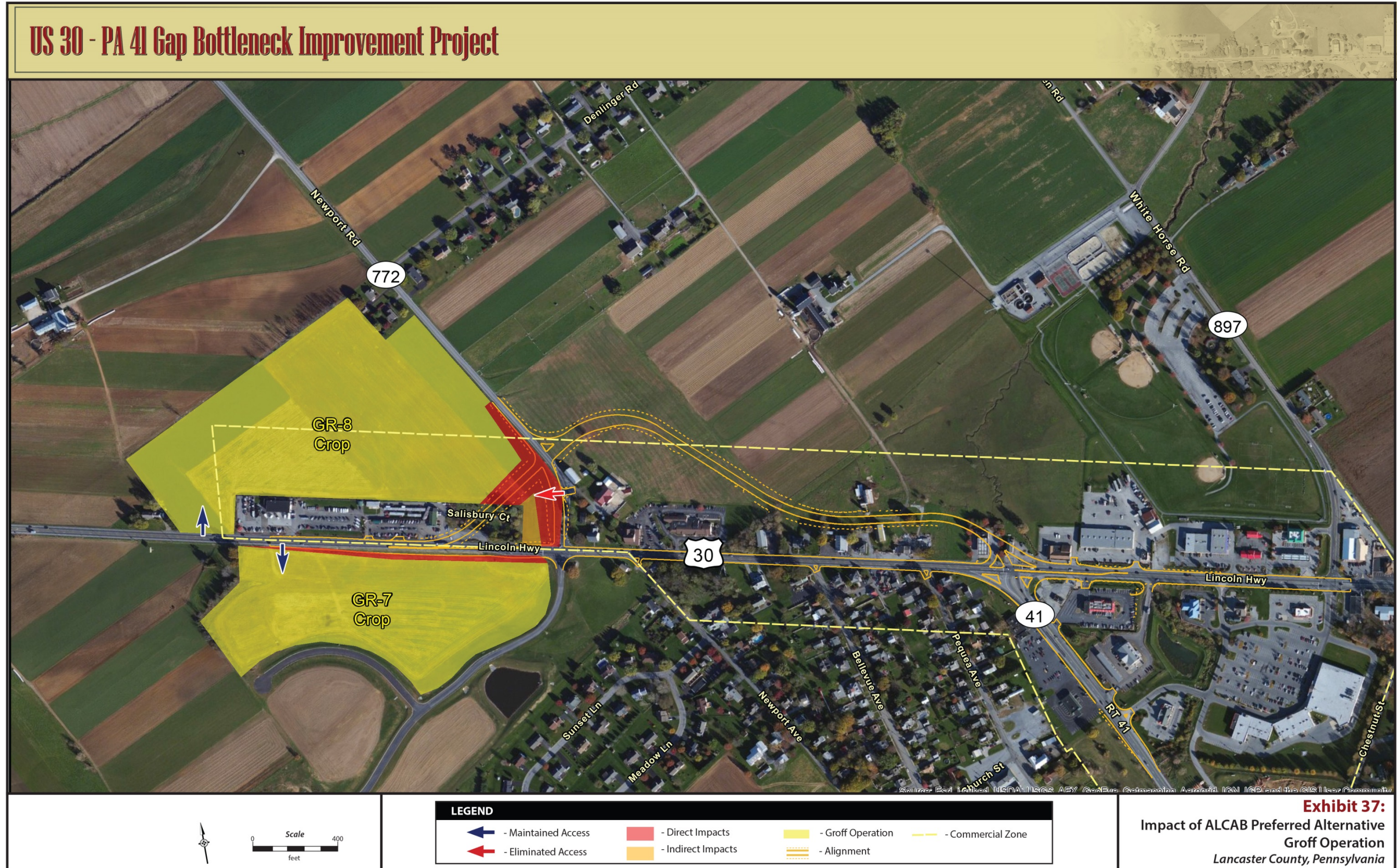


Figure 8. Sample Graphic for FAR 2

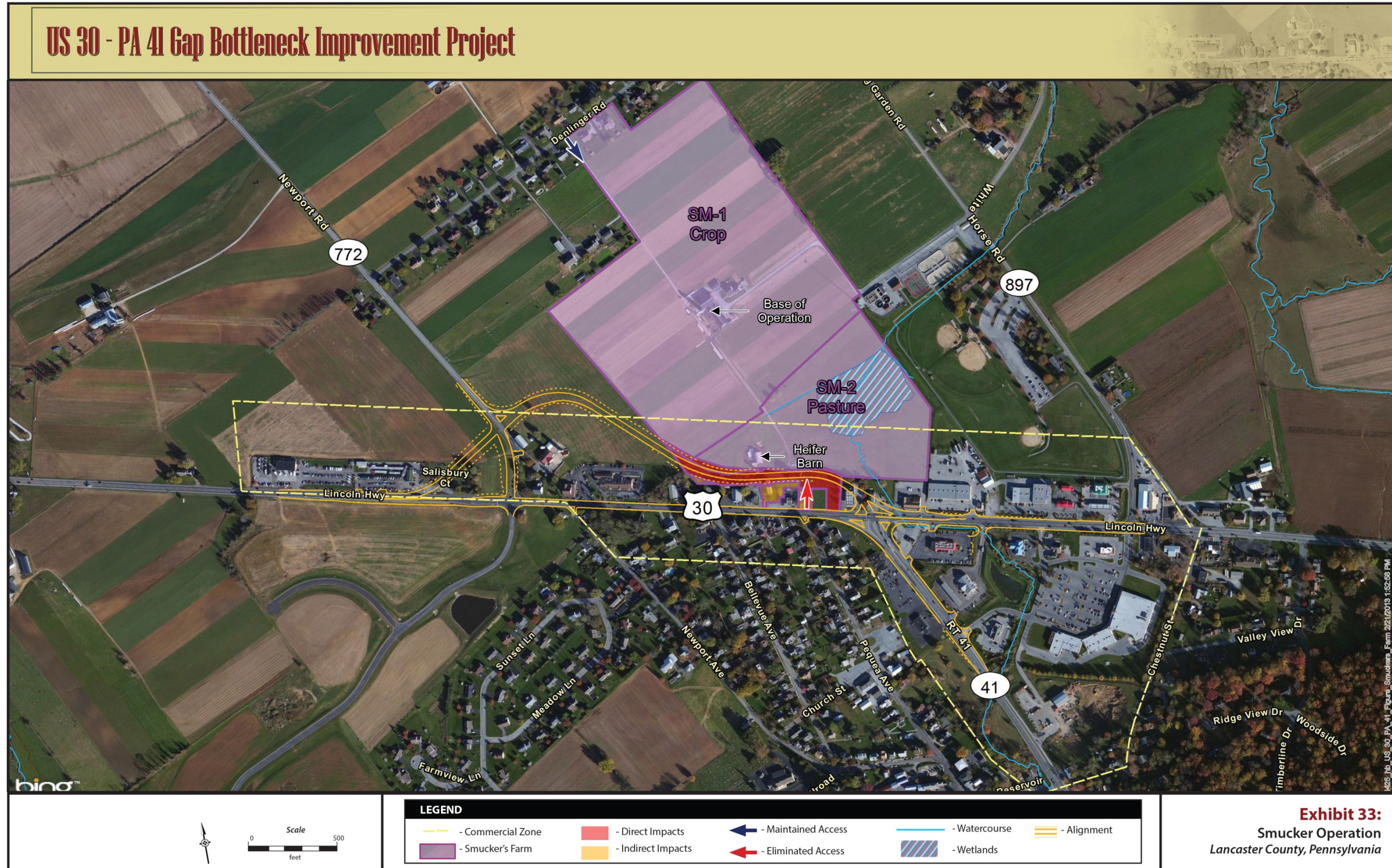
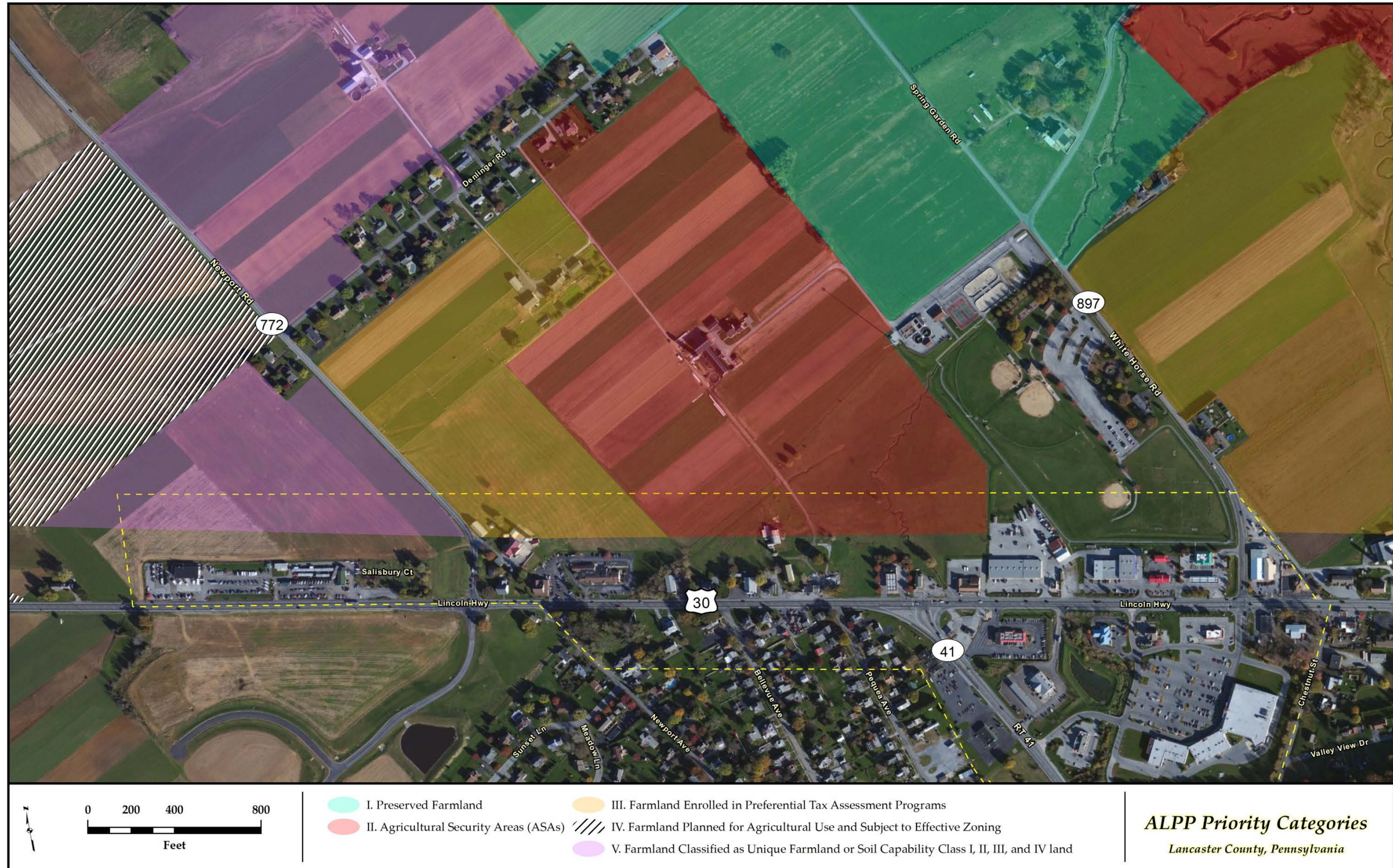


Figure 9. Sample Graphic for FAR Showing Land by Highest Ranked Category



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Impact assessment for land in agricultural production afforded protection under Act 100, Act 43, and the ALPP may include any of the following categories of land in agricultural production:

- Productive agricultural land with an agricultural conservation easement or deed restriction;
- Productive agricultural land included in an ASA;
- Productive agricultural land enrolled for preferential tax assessment;
- Productive agricultural land within an effective agricultural zoning district;
- Productive agricultural land underlain by unique and/or capability Class I, II, III, and IV soils; and
- Other land in agricultural production.

Once the impacts to land in agricultural production from the various Detailed Alternatives have been analyzed, a presentation should be made to the PennDOT BOPD (EPDS and HDTS) and OCC-RPD. Impacts should be assessed for the selected alternative on a per operation basis and, when appropriate, on a per parcel basis.

Impacts should be both quantitative and qualitative in nature. The degree to which the impacts are calculated is determined in part by the complexity of the project and may need to include some or all of the following considerations:

- Acres of productive land lost;
- Loss of farm buildings;
- Change in access;
- Production loss in terms of quantities of crops, pasture, livestock, etc.;
- Special tax status of affected land (Act 515 and Act 319);
- Percentage of productive farmland lost;
- Percentage of agricultural commodities lost;
- Loss of critical types of land, commodities, buildings, etc. needed to keep the operation functioning;
- Impacts to water supply;
- Importance of farming to the farmer's livelihood;
- Number of family members and hired workers supported by the farm;
- Length of time that the farmer or his family has owned and/or worked the land;
- Anticipated future of the farm (e.g. is the farm slated for development in the near future?);
- Zoning and land use patterns where the farm is located;
- Size of the farm in comparison to the county average, both before and after the impacts;
- Contribution of the farm to the local economy; and
- Continued economic viability of the entire ASA.

If needed, the farmers can be contacted again and asked their opinions regarding the effects the impacts would have on the continued operation of their farms. Written notes on the question of farm viability should be made for each operation and kept in the project file.

After the impacts to agricultural lands have been calculated, the project team should consult the officials, agencies, or organizations that have jurisdiction over those lands. The purpose of the consultation is to obtain from these parties their assessment of the impact, and to determine if

they would be opposed to the proposed use of the land. The easement owner(s) should be consulted with regard to impacts to preserved farmland. Municipal officials should be consulted about impacts to effective agricultural zoning districts. It is recommended that the county agricultural land preservation board also be consulted in all of these situations.

For ASAs, the municipal officials and the local agricultural area advisory committee should be contacted. As part of the impact assessment for the FAR, and a part of PennDOT's burden of proof in an ALCAB proceeding, the economic viability of farming throughout the ASA must be addressed. Impact assessment will be based on tangible facts and data, such as existing land use and actual development patterns. Facts and data to be considered in the assessment may include the following:

- Current zoning;
- Existing utilities;
- Planned extensions of utilities;
- Comprehensive plans;
- Building permits;
- Development projects with preliminary plan approval;
- History of the ASA;
- Economic viability of farming in the ASA when it was formed; and
- Strength of the farming community in the area.

Such information can indicate the overall development pressures the ASA is facing, which may or may not be related to the proposed project. Information on the ASA's history that should be collected includes the original acreage, changes in acreage, original zoning in the ASA, and changes in zoning. These factors can be indicative of local attitudes and resulting actions regarding the ASA. Landowners enter into ASAs for a variety of reasons, and it cannot be assumed that farming is an economically viable use of the land simply because of the existence of an ASA.

A thorough review of farming within an ASA also requires a broader view, due to the support services that farming requires. The strength of the farming community in the general area should be investigated to achieve this broad view. Factors to consider include soil quality, the location of farm supplies, transportation infrastructure, the location of markets for farm products, land available for farm expansion, preserved farms, and the existence of and enrollment in preferential tax programs. All of these characteristics play a role in the concept of "critical mass". Critical mass is the threshold amount of farmland that is required in an area in order to maintain the viability of farming in that area.

Discussion of impacts will be primarily qualitative in nature. Efforts to minimize impacts should be considered and documented. Minutes of meetings with officials regarding agricultural resources should be carefully recorded and retained for the project file. Written opinions from the officials and organizations can also be requested if the project team deems this appropriate.

2. Consider Minimization Measures

If there is no reasonable and prudent alternative to the use of productive agricultural land, the project team should consider ways to minimize impacts. Minimization measures should give

consideration to the priority rankings established in the ALPP. In this manner, impacts to land with an agricultural conservation easement or deed restriction (highest priority) would be minimized first, impacts to land in ASAs (second highest priority) second, and so forth.

NOTE: The design team should consider minimization measures, as appropriate, in developing the Build Alternative. Typical minimization efforts include localized alignment shifts away from high-priority resources, agricultural buildings, and highly productive land.

Particular features to consider when developing minimization measures include water lines (domestic and agricultural), equipment access routes to parcels, livestock access routes to grazing and feeding stations, underground drainage lines, location of the most productive parcels, and fencing and/or livestock containment structures. In addition, shifts may reduce the number of bisected parcels, therefore reducing the amount of indirect impacts to specific operations. Attempts to minimize impacts sometimes raise questions about existing conditions, so additional coordination with agencies, owners, or operators may be necessary. Finally, while attempting to minimize agricultural impacts, the design team must take into account other sensitive features within the project areas.

If questions or concerns are raised regarding the significance of the impact to agricultural land or to the level of public opposition, a presentation to the PennDOT BOPD (EPDS and HDTS), and OCC-RPD may be necessary. The presentation should provide BOPD (EPDS and HDTS) and OCC-RPD with the following information: project history, need, location, and description; description of agricultural resources in the impact area; level of coordination conducted to date (agency, public, and farmer); and nature of concern.

The minimization measures may require additional data collection, which should be collected as necessary throughout the course of the project. Minimization measures should be considered for those alternatives that will affect agricultural resources, particularly PAL. An example of a minimization measure would be constructing underpasses that would allow farmers to retain access to residual parcels.

It will often not be possible to make a commitment to such minimization measures during the preliminary design phase of a project. Nonetheless, minimization should be investigated during preliminary design in order to determine the possible consequences of each alternative. Minimization measures should be discussed with the District ROW Unit.

B. Present Results of Evaluation to PennDOT BOPD and OCC-RPD

Once the impacts to land in agricultural production from the various detailed alternatives have been analyzed, a presentation should be made to the PennDOT BOPD (EPDS and HDTS) and OCC-RPD in a workshop forum for projects that require an ALCAB hearing. This workshop is mandatory because issues resolved at this point will save PennDOT time and money. For each alternative retained for detailed study, a tabulation of impacts to agricultural resources, a general discussion of effects on individual farming operations and the ALCAB Test Worksheet(s) (pages 31 and 44) should be presented. Additional topics of discussion should include the alternatives analysis and minimization efforts associated with each alternative.

During the workshop, the PennDOT BOPD (EPDS and HDTs) and OCC-RPD will assess the farm operations and the impacts from the various alternatives developed for the project and will make recommendations regarding the alternatives analysis and ALCAB's jurisdiction. The PennDOT BOPD (EPDS and HDTs) and OCC-RPD will provide guidance to the District on how to proceed with preparation of the FAR and the ALCAB hearing.








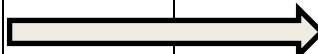
The results of the ALCAB Test for both the Preliminary Alternatives and the Detailed Alternatives must be presented at the workshop. Impacts to PAL (including ASA, easements, and remaining categories of PAL) must be tallied by operation, and if possible by parcel for the analysis. Other impact information should include all other environmental, cultural, and socioeconomic resources identified during the environmental process. Cost information for the various alternatives needs to be identified as well, although such data is normally kept in the project file and not included in the FAR or presented at the ALCAB hearing. Finally, the ability of each alternative to meet the project needs must be evaluated and presented at the workshop. The results of the alternatives analysis should be presented as illustrated in [Table 4B](#).

The timing of the ALCAB hearing will also be discussed at this workshop. A discussion of determining the timing of the ALCAB hearing is included below in [Section V, Subsection C](#).

Findings from the evaluation process must be summarized in the appropriate NEPA/PA Act 120 document and the technical support data. Include a statement regarding ALCAB jurisdiction and timing of the required ALCAB hearing, as well as a description of the resource's existing conditions, impacts to the resource, and minimization measures.

Information incorporated in the technical support data for Act 100/Act 43 may include the following:

- NRCS list and maps of "prime agricultural land" soils (capability Class I, II, III and IV and unique soils), as available;
- A list of study area properties (by tax parcel number) enrolled in Agricultural Security Areas and Act 319/515 programs as per local government, county, and/or state office records;
- Maps of ASAs
- Maps of conservation easements
- Maps of land in agricultural production
- Completed agricultural land owner/operator interview forms (if necessary);
- A description of the methods and calculations used in impact assessments;
- Pertinent correspondence, meeting minutes, and field views;
- A description of all minimization efforts pursued and the results of those efforts;
- A list of reference materials;
- Existing and future land use maps from a comprehensive plan when available;
- Agricultural resource maps from a comprehensive plan when available; and
- Zoning maps when available.

Table 4B: Alternatives Development and Analysis Results						
Alternatives	Preliminary Alternatives Analysis	Detailed Alternatives Study	Preferred Alternative	Summary of Analysis	Does Not Meet Project Need	Excessive Impacts
No-build				Considered throughout EIS process; does not meet project needs for corrected highway deficiencies, safety improvements, or regional system linkage	X	
Transportation System Management				Does not meet project needs without roadway construction or reconstruction associated with a “build” alternative	X	
Alternative A				Widening Alternative; does not meet project needs for traffic congestion relief or safety improvements and involves excessive displacements and noise impacts	X	X
Alternative B				New alignment alternative; involves excessive displacements; and noise and cultural resources impacts		X
Alternative C				Combination widening with new alignment; involves excessive displacements, and noise and wetland impacts		X
Alternative D				New alignment alternative; involves excessive cultural resource and wetland impacts		X
Alternative E				New alignment alternative; involves excessive cultural resource and wetland impacts		X
Alternative F				New alignment alternative; avoids cultural resource impacts, and minimizes displacements and agricultural resource impacts		



Decision-Making Point: Does the Preferred Alternative Represent the Best Balance of Impacts?

The Preferred Alternative is identified at this point during the transportation project development process in consideration with the state and federal resource agencies, FHWA, and PennDOT. The identification process takes into account an alternative's ability to meet the project needs while balancing impacts from all the social and environmental features. The goal is to have a Preferred Alternative with the least impact to land in agricultural production. However, it is possible to identify a Preferred Alternative that does not have the least impact to land in agricultural production. If the Preferred Alternative does not have the least impact to land in agricultural production, the alternative analysis must document why the other alternatives are not reasonable and prudent.

Once it has been determined that an alternative is clearly favored based upon engineering and environmental studies and it passes the ALCAB Test, it will be designated as the Preferred Alternative. For complex projects, the Draft EIS (DEIS) or the EA will be circulated for public review and comment. For more straight forward projects, the CEE will be reviewed and approved by either PennDOT or FHWA.

If the Preferred Alternative does not represent the best balance of impacts, the detailed alternatives must be reexamined or new alternatives must be developed and reviewed by the BOPD (EPDS and HDTs) and OCC-RPD (as appropriate).

C. ALCAB Coordination Process

As indicated in [Section II](#), Act 100 and Act 43 compliance is required prior to the condemnation of PAL for highway or other transportation purposes. The preparation of the FAR, development of hearing materials and the choreography of the ALCAB hearing will generally be conducted after receipt of the environmental decision and those steps are discussed in detail below.

PennDOT BOPD (EPDS and HDTs) recommends conducting the hearing soon after the environmental decision is issued. Districts may use the following guidance in implementing this policy:

- Much of the documentation presented to ALCAB will be collected during the preliminary engineering/environmental decision process.
- All alternatives considered, dismissed, or carried for further study must be examined against the ALCAB Test.
- Non-ALCAB related coordination on agricultural resources with the farmers, the PDA, and local farming organizations must take place in the preliminary design/environmental decision process, prior to final design.
- Conducting the ALCAB hearing soon after the environmental decision is issued will facilitate access to the administrative record, recent project data, institutional memories, and witnesses from the preliminary design team; and minimize reevaluation of data collected during the preliminary engineering.

- In determining the timing of the ALCAB hearing, the District ROW Unit should be consulted regarding the status of ROW negotiations and clearance.
- If PennDOT and the property owner are able to settle amicably, then ALCAB approval is not required.

Based on discussions with BOPD (EPDS and HDTS) and OCC-RPD, it may be determined to proceed to ALCAB prior to an environmental decision. Several reasons that it may be beneficial to proceed to ALCAB prior to an environmental decision are:

- The project has a tight time schedule.
- There is uncertainty if ALCAB will concur with the preferred alternative.
- The project is controversial.
- The property owner is unlikely to settle amicably (The ROW process cannot begin until there is an environmental decision, so an assumption would need to be made).

By going to ALCAB early, you can ensure that you do not end up with an environmental decision for an alternative that will not be approved by ALCAB. However, by going to ALCAB early, if design modifications that increase impacts to PAL occur during Final Design, or if additional lands are placed into agricultural production, an additional ALCAB Hearing may be required.

Prior to the ALCAB hearing, information to be presented in the FAR, such as PAL status and prime agricultural land status, should be updated and verified if the data is over one year old. This includes updates on easements, ASAs, effective agricultural zoning, and Act 319/Act 515 enrollments. This may involve coordination with agencies or follow-up interviews with farm owners and operators. Changes can occur quickly in regards to land use. Act 100 and Act 43 are based on current land use, and changes in land use may affect ALCAB applicability.

Following any necessary updates on PAL, it is necessary to re-examine whether the proposed project is still in compliance with ALPP and FPPA requirements. Changes in the PAL boundaries or in the proposed project may require new assessment of impacts and/or additional consideration of minimization measures. Notify OCC-RPD if this occurs.

ASA economic viability, which is considered during the impact assessment phase of the project, needs to be documented in the FAR. If any changes were discovered during the update on PAL parcels, ASA viability may need to be re-assessed. A summary of the findings should be included in the FAR, as part of the assessment of the preferred alternative.

As a final check for accuracy prior to preparing the FAR, the identified resources and impact assessment should be verified as being accurate for the preferred alternative, as refinements or design changes may have taken place in final design. Also at this time any legal opinions regarding PAL or ALCAB jurisdiction must be reviewed and updates must be obtained if necessary.

D. Preparation of the FAR

The purpose of the FAR is to present PennDOT's alternatives analysis in support of its application to ALCAB for condemnation approval. The FAR is a requirement of PennDOT policy and procedures and not a formal legal requirement of ALCAB law. The FAR documents the evaluation procedures, project impacts, and measures taken to minimize impacts to agricultural resources. The FAR – prepared exclusively for ALCAB proceedings – outlines the alternatives analysis, contains facts and data on PAL, ALPP categories, and FPPA data, along with a discussion of impacts to the economic viability of the entire ASA, if applicable.

NOTE: It is important that the FAR clearly states the purpose and need of the proposed transportation project in order to have a clear argument as to why alternatives will or will not meet the project needs. The FAR should also include as much information as possible on each agricultural operation.

The amount of detail required in each FAR will depend on the complexity of the project, the number of individual operators affected, the amount of PAL to be condemned, and the difference in the amount of PAL to be converted for each alternative considered in the NEPA/PA Act 120 document, as well as the preferred alternative.

In general, the FAR should mirror the presentation before ALCAB. Therefore, the project study team must begin outlining their ALCAB presentation in terms of organization of exhibits and witnesses in conjunction with the workshops for the preparation of the FAR.

In accordance with Department policy, the FAR review process would include reviews by the District, BOPD (EPDS and HDTS), and OCC-RPD prior to submission of the report to the PDA with the request for the ALCAB hearing. A sample format for the FAR is provided in [Table 5](#) and a FAR checklist in [Table 6](#). Although every FAR and ALCAB hearing are unique to the project, it is useful to review a recent FAR to obtain a better understanding of the required elements. [Figures 7](#) and [8](#) are examples of how to illustrate farm parcels, farm access routes and impacts to the PAL. [Table 4B](#) is an example of the Alternatives Analysis and the ALCAB Test.

Table 5: FAR Sample Format

Preface

The following language must be included in the Preface:

“This Farmland Assessment Report has been prepared exclusively for proceedings in the Commonwealth of Pennsylvania before the Agricultural Lands Condemnation Approval Board (ALCAB), in accordance with the applicable provisions of:

- Section 306 of the Administrative Code of 1929, as amended, December 7, 1979, P.L. 478, Act No. 100, § 1, 71 P.S. § 106;
- The Agricultural Area Security Law of 1981, P.L. 128, Act No. 43, §13, as amended, December 14, 1988, P.L. 1202, Act No. 149, §1,3 P.S. §901 *et seq.*; and
- The regulations establishing the Commonwealth’s Agricultural Land Preservation Policy, found at 4 Pa Code, Chapter 7, §7.301 *et seq.*

The distribution of, or reference to, this document for any purpose other than for formal legal proceedings before the ALCAB without the prior written permission of the Commonwealth of Pennsylvania, Department of Transportation, shall be deemed unauthorized and is hereby prohibited.”

Table of Contents

The report should be set up to allow the reader to easily find the material within the document. Number all exhibits (figures, photos, graphics).

Executive Summary

This section is to be concise – perhaps five to ten pages for complex projects. The purpose is to briefly describe the intent of the project, the needs of the project, the alternatives analysis, and the impacts to agricultural resources, and to identify the Preferred Alternative. The executive summary should reference tables, graphics, and figures in the body of the report as needed.

I. Introduction

- A. *Project Location and Description*** – This section introduces the project and includes regional and study area maps as needed.
- B. *Project History*** – This section should be kept to a simple time line of significant events.
- C. *Project Need*** – It is not necessary to “prove” project need in this document. The function of ALCAB is to review PennDOT’s case and decide whether there is *no reasonable and prudent alternative to the utilization of PAL for the project*. It is important to clearly state the needs of the project, as alternatives are often dismissed for failing to meet one or all of the project needs.
- D. *Environmental Features*** – Describe environmental features (natural, cultural, socioeconomic) present within the project area that were considered during the alternatives analysis. Include mapping showing the location of these environmental features.

II. Farmlands Assessment Methodology

- A. *Farmland Legislation Review*** – Provide the legal citations to Act 100 of 1979, Act 43 of 1981, and the Agricultural Land Preservation Policy. Also include Act 515 of 1966, Act 319 of 1974, and FPPA as applicable.
- B. *Data Collection*** – Describe methods for data collection. Depending on the complexity of the project may need to explain both preliminary and detailed data collection methods.

III. Alternatives

There are two main elements to meeting the ALCAB Test. First, the applicant (PennDOT) must establish an Alternatives Analysis. Second, the applicant must describe and enumerate impacts to specific agricultural resources. Each element is of equal importance. Regarding the alternative analysis, the complex facts and data of the project must be effectively communicated so that the ALCAB can clearly follow the progression of alternatives considered and dismissed throughout the project development process. An alternative should be dismissed if it does not meet the project need (prudent) and/or it results in excessive environmental or social impacts (reasonable). [Table 4B](#) provides a format often used to display the dismissal of alternatives.

A. Alternatives Development Overview – Brief overview of alternatives considered and those that were dismissed. Include table similar to [Table 4A](#).

B. Preliminary Alternatives – The analysis should clearly indicate why alternatives were dismissed from further study and why alternatives were retained for detailed study. Be sure to include the No Build Alternative as well as any other alternatives considered (could include Transit/Transportation System Management/Congestion Management Systems, etc.).

C. Alternatives Studied in Detail – This section discusses the alternatives carried forward for detailed study. The discussion of alternatives and their impacts should include the detailed data relative to farmlands and other social and environmental impacts.

D. Recommendation of an ALCAB Preferred Alternative – The purpose of this section is to narrow down the alternatives to the Preferred Alternative. Summary tables should be used as necessary to indicate why the Preferred Alternative was designated. Impacts to other social and environmental resources should be discussed in addition to the agricultural resources.

IV. Farmland Assessment of the ALCAB Preferred Alternative

If all alternatives are successfully dismissed, this section will only discuss impacts by operation for the Preferred Alternative. However, the scope will be broader in Act 43 ALCAB proceedings as PennDOT will present facts and data regarding impacts on the economic viability of the entire ASA. The impacts to the following resources should be addressed in this section: PAL, ASAs, Prime Agricultural Land, and FPPA farmland. The reason that only the Preferred Alternative is discussed in this section is because the alternatives analysis will have dismissed all the other alternatives. The detailed discussion of the operations along the Preferred Alternative is done to give ALCAB enough information to determine the effect of the alternative, and also to show the minimization efforts that were made along the alternative. Information to be discussed includes changes in access, any residual farm parcels that were created, and individual farm operation viability. If all the alternatives could not be easily dismissed in the alternatives section, it may be necessary to detail the impacts on a per operation basis for each alternative. This decision should be made in conjunction with PennDOT BOPD (EPDS and HDTs).

V. Conclusion

Conclude that there is no reasonable and prudent alternative to the conversion of PAL for the construction of the project.

Table 6: FAR Completeness Checklist		
Item	Complete	Notes
Cover Sheet		
Preface		
Table of Contents		
List of Exhibits		
Executive Summary		
I. Introduction		
Project Location and Description		
Project History		
Project Need		
Project Location Maps (regional and local)		
II. Farmland Assessment Methodology		
Farmland Legislation Review		
Act 100		
Act 43		
Agricultural Land Preservation Policy (ALPP)		
Farmland Protection Policy Act (FPPA)		
Local Legislation (if applicable)		
Data Collection		
<i>Preliminary Data Collection</i>		
<i>Detailed Data Collection</i>		
III. Alternatives		
Alternatives Development Overview		
Environmental Features		
Preliminary Alternatives		
Alternatives Considered and Dismissed		
Alternatives Retained for Detailed Study		
Rationale for Dismissed & Retained Alternatives based on Project Need and Social/Environmental Impacts		
Recommendation of an ALCAB Preferred Alternative		
Map(s) of Alternatives		
IV. Farmland Assessment of the ALCAB Preferred Alternative		
Productive Agricultural Operations		
<i>Operation Descriptions</i>		
<i>Agricultural parcel information/map(s)</i>		
<i>ASA land in operations</i>		
<i>Impacts to operations (PAL, ASA land, farming activities)</i>		
Assessment of Agricultural Operation Impacts		
Impacts to Prime Agricultural Land		
ASA Viability		
FPPA Overview and Findings		
V. Conclusion		
References		
Correspondence		
List of Preparers		
Appendices		

E. Workshop for ALCAB Hearing

An ALCAB hearing is a legal proceeding governed by the Administrative Rules of Practice and Procedure. Landowners, farm operators and any other interested persons may attend these hearings with or without representation of counsel. A transcript of proceedings is kept and hearings are subject to the general rules of evidence.

Trial counsel will represent PennDOT from OCC-RPD or on assignment from an OCC Regional Office. The District is responsible for forwarding a timely notice within the parameters of its desired project schedule for the ALCAB proceeding to the Chief Counsel or the Assistant Chief Counsel, Real Property Division, for assignment to trial counsel.

After trial counsel is assigned at least one FAR Workshop must be held. The workshop is mandatory to review and prepare a final draft of the FAR, outline the ALCAB timetable and begin to discuss the ALCAB presentation and PennDOT witnesses. District personnel, BOPD (EPDS and HDTS), and both engineering and environmental consultants must attend the FAR Workshop. More than one Workshop session may be required in complex projects. Final approval of the FAR by PennDOT will be determined subsequent to this workshop.

The following is a list of standard questions that should be used in preparing for ALCAB testimony and reviewed during the Workshop:

- Where is the project located? (County, municipality, route, etc...) – show on map
- Can you define the project study area? (explain the boundaries of the general study area) – show on map
- What are the project needs? (List the project needs) – include list on slide or board. (May want a board so list can stay up while reviewing each need one at a time).
- Can you explain the first project need? (Explain the facts upon which this need is based/studies undertaken to obtain those facts.) – this sets up the first part of the “ALCAB test”. Keep in mind, will need some way to “measure” whether or not the need is met with a particular alternative later in the analysis. Show appropriate graphics to illustrate each need.
- Can you explain the second project need? (same info as above).
- *Repeat above bullet until have gone through each of the needs.*
- What is the purpose of the proposed project? State the project purpose.
- Are there agricultural lands and other natural, cultural or socioeconomic resources in the study area that are of concern? Yes.
- Can you describe these for the board? (have environmental constraints mapping) – Describe the resources in the project area and explain data sources as appropriate.
- Can you explain how alternatives were developed for this project? Explain that alternatives were developed to meet appropriate engineering design criteria, avoid/minimize effects on environmental resources including agricultural lands and to address the project purpose and needs.
- Can you explain what you mean by design criteria? Describe the criteria that are applicable to the specific project and pertinent to the analysis (e.g. lane widths, shoulder widths, sidewalks, curbs, vertical and horizontal curves, grades, etc...)

- Can you explain what the “ALCAB test” is? Yes, there are two parts to the ALCAB test. The ALCAB test requires evaluating alternatives to determine whether they are prudent and reasonable. The first part – prudent – refers to the ability of an alternative to address the project needs. The second part – reasonable – refers to whether or not an alternative would result in substantial impacts to environmental resources. An alternative is not prudent if it would not address the project needs. An alternative is not reasonable if it would result in severe impacts to environmental resources.
- Can you describe the alternatives evaluated for the project? Yes. (bring out board showing the ALCAB alternatives analysis process – [Table 4B](#) from this Section of the handbook) – review the alternatives that were evaluated – No Build + ??? + ??? + ???, etc..
- Can you walk through the analysis of each alternative? Go through each alternative. Explain what the alternative entails (will need graphics to support the discussion). Explain whether it meets the needs or not. Did it make it through the preliminary analysis or not. If not, why not? If not, give the facts that support its dismissal as either not prudent or not reasonable or both.
- *Go through each alternative*
- Can you describe the ALCAB Preferred Alternative? State which alternative is the ALCAB Preferred Alternative (show on a map).
- Can you describe the productive agricultural land impacts associated with the ALCAB Preferred Alternative? Show map of all operations affected by the alternative.
- Can you explain how each operation was evaluated? Explain that each operation was assigned code letters (e.g. SP for Sparks operation). Each field within that operation was assigned a number (SP-1, SP-2, etc...). Impacts were calculated by overlaying alternative onto agricultural mapping. Interviewed farm operators and property owners to obtain information on operations and potential effects of the alternatives.
- Can you review the effects on the XYZ Operation? Go over how the XYZ operation would be affected – Identify total acreage of operation, owner or tenant farmer, base of operations, direct impacts to fields in acres, parcels left inaccessible or uneconomical to farm, interrupted water sources or markets or issues with farm machinery, etc... Discuss viability of operation, etc..
- *Repeat above for each operation.*
- Were the ALPP priority classifications considered? Yes – explain each priority category, state what exists in project area and show on maps.
- Can you describe the impacts to the various priority classes? Yes, explain the acreages of each class impacted. *Don't double dip – each acre is only put into its highest classification.*
- Are there ASA lands impacted? Yes (if No, then next question is not applicable)
- Would the ASA remain viable following construction of the project? Explain total acreage of ASA and how many acres would be taken out of the ASA for the project. Also review the planned development and development pressure on the ASA in considering its long-term viability.

F. Submit FAR to the Pennsylvania Department of Agriculture

Approval of the FAR must be obtained from BOPD (EPDS and HDTS) and the OCC-RPD, and upon the approval, BOPD-EPDS will conduct a final backcheck of the FAR prior to distribution to PDA. Once the FAR is approved it is submitted to the Office of the Secretary of Agriculture along with a formal request for ALCAB approval. Technically, ALCAB approval must be in place at the point of condemnation even though it is obtained well in advance of most ROW acquisition procedures. The law, however, places strict time limits on ALCAB itself once an application for ALCAB approval is filed with the Secretary of Agriculture. Essentially, ALCAB must rule within sixty (60) days of receipt of an application for approval or the application will be deemed as approved. Consequently, standard ALCAB practice is to hold the hearing no more than thirty (30) days after the application is filed and to rule on the application the same day immediately after the closing of the formal record.

With respect to timing of the hearing, the goal should typically be to request condemnation approval as soon as possible following the issuance of an environmental decision. The District will request BOPD-EPDS to make the formal request. The Secretary of Transportation submits a formal request for an ALCAB hearing to the PDA. A District request for an ALCAB hearing is submitted to the BOPD-EPDS along with the names and mailing addresses of affected property owners (provided by the preparer of the FAR) and copies of the final FAR. In addition to copies for the project team members, the following number of reports is required for submission to the PDA:

- Seven copies for the ALCAB (one for each member and one for the hearing examiner);
- Five copies for the PDA; and
- One copy for the ALCAB hearing record (retained for submission during ALCAB hearing).
- One copy for each landowner and farm operator impacted by the project.

The BOPD-EPDS will prepare the official letter of request to go to the Secretary of the Department of Agriculture under the signature of the Secretary of Transportation. This letter of request will be prepared in consultation with the OCC-RPD. The BOPD-EPDS will then transmit the letter, affected property owner information, copies of the FAR, and the name of a contact person in PennDOT to the PDA. The contact person may be the District Executive or a representative of the BOPD-EPDS.

NOTE: The FAR is more like a legal brief filed with a court in advance of a trial than a document prepared for the environmental planning process. PennDOT is under no legal obligation to provide non-interested parties or the general public with access to the FAR prior to the ALCAB hearing. Landowners and farm operators impacted by the project must be provided with a copy of the FAR in advance of the ALCAB hearing.

Distribution of and access to the FAR after it is submitted to PDA with a formal application for ALCAB approval is at the discretion of PDA.

Upon receipt of the hearing request, the PDA will conduct the following activities:

- Arrange for an impartial hearing examiner;
- Coordinate with the ALCAB members and the hearing examiner for a hearing date;
- Arrange for a suitable hearing site (Act 43 requires the hearing to be held within or in close proximity to the project area; Act 100 does not specify a hearing location);
- Notify the applicant (PennDOT) and affected property owners of the hearing's time and location;
- Comply with Sunshine Act Notification Procedures and place public notice of the hearing in *The Harrisburg Patriot News* (Act 43 requires public notice in both a local and Harrisburg newspaper);
- Post the hearing notice in five public places within the project area (Act 43 requirement); and
- Notify the local government unit of the hearing (Act 43 requirement).

G. Dry Run for ALCAB Hearing

The schedule should allow for at least one dry-run presentation of the material for the ALCAB hearing subsequent to submitting the FAR to the PDA. Depending on the complexity of the project and the results of the first dry run, it should be assumed that a second dry run will be necessary. District personnel and representatives from the PennDOT BOPD (EPDS and HDTs) and OCC-RPD should be in attendance at each dry run presentation.

H. ALCAB Hearing

ALCAB is comprised of six members, including the Director of the Office of Policy and Planning (or his/her designee), the Secretary of Agriculture (or his/her designee), the Secretary of Environmental Protection (or his/her designee), the Secretary of Transportation (or his/her designee), and two active farmers appointed for a term of four years. The Secretary of Agriculture is the chairperson of the board.

The hearing examiner facilitates the hearing and will provide the ground rules for the hearing and identify the scope of ALCAB's jurisdiction at the start of the hearing. All witnesses should be identified and sworn in at the beginning of the ALCAB proceedings. Be sure to have witnesses explain their expertise such that they are able to offer a "professional opinion" within their area of expertise. Curriculum vitae can be submitted into evidence. The next step is entering the PDA exhibits into the hearing record. The following exhibits are entered in the record by the PDA:

- PennDOT letter requesting hearing (example in [Appendix 5](#));
- List of affected property owners;
- Copy of letter sent to PennDOT indicating place and time of hearing (example in [Appendix 5](#));
- Copies of certified letters sent to affected property owners (and receipts);
- Copies of newspaper notices;
- Copy of public notice (when applicable – Act 43 requirement);
- Verification of public notice posting (when applicable – Act 43 requirement); and
- Copies of letters sent to local governments (if it is an Act 43 project).

Upon entry of the PDA's exhibits into the record, PennDOT begins its portion of the hearing. The following items are provided as a general sequence of events during a typical ALCAB hearing:

- Present the FAR;
- Distribute the presentation handout to ALCAB members;
- Swear in all PennDOT witnesses;
- Provide an opening statement;
- Present information generally in the same format as the Table of Contents of the FAR;
 - Project history and location
 - Project needs
 - Environmental features
 - Alternatives analysis (ALCAB Test)
 - Farmland impacts of preferred alternative
 - ALPP
 - Act 43 ASA viability
 - FPPA
- Enter PennDOT's exhibits into the record; and
- Make a formal request for ALCAB approval to condemn PAL

The testimony presented by PennDOT reflects the outline of the FAR. The testimony will begin with an opening statement by the OCC-RPD. The hearing will then follow formal court proceedings with legal counsel asking questions and witnesses responding to present the case. Through these questions and answers, the information documented in the FAR should be explained such as project history, project needs, existing environmental conditions, alternatives development, farmland assessment, alternatives analysis, how each alternative does or does not meet the ALCAB Test, assessment of farmland impact for the Preferred Alternative only, and request for ALCAB approval to condemn PAL.

NOTE: "Reasonable and prudent" must be defined as part of the presentation for use in explaining the alternatives analysis and the determination of the preferred alternative.

The District Office will prepare exhibits to support or assist the verbal testimony. All exhibits should be relatively easy to comprehend and should be of sufficient size for ALCAB to read. Each exhibit should be numbered according to the following manner: "Exhibit 1." Prepare a summary board of all alternatives considered and whether or not they are reasonable and prudent for use in guiding testimony (this could also be done in a PowerPoint format). It is not necessary to reproduce the large exhibits in a separate handout, although it can be done if handouts would be helpful. However, a handout should be prepared for the following information: agenda, list of witnesses, and a list of exhibits.

The ALCAB hearing is a formal legal proceeding and will be conducted as such. Each PennDOT witness will testify and at the end of their testimony will be subject to cross examination. There will be opportunity for redirect following cross examination.

When testifying, witnesses should be sure to orient the ALCAB board to each graphic presented and describe graphics in a way so that anyone reading the court record can visualize the graphic. It is also important to provide facts to back up any conclusionary statements in testimony (in turn opposition will need to provide facts to support their position).

Once PennDOT is finished presenting its case, landowners, farm operators and any other interested persons may present a case of their own either in support of or in opposition to PennDOT's application, with PennDOT counsel having a full opportunity to cross-examine and challenge any evidence and testimony contrary to the PennDOT case.

NOTE: To rebut the expert engineering testimony presented by PennDOT in its case, challengers must present expert engineering/environmental testimony of their own. The opinion of the lay witnesses is insufficient to refute the expert testimony presented by PennDOT.

Following any case either in support or in opposition to PennDOT's application, PennDOT has a right to recall any witness and present a case in rebuttal. At the close of the formal record, ALCAB will move immediately into private deliberations to consider the matter and will generally reconvene and announce its decision on the record that same day. A formal written adjudication and order will follow within 7 to 10 days.

ALCAB rulings are subject to applicable rules governing administrative proceedings and, eventually, may be appealed to the Commonwealth Court for appellate review. An unappealed ALCAB adjudication becomes a final order on the issue of condemnation approval only for the preferred alternative as presented to ALCAB and only affecting the PAL included in the FAR and addressed in the record at the hearing.

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SECTION VI. AGRICULTURAL LAND PRESERVATION POLICY (ALPP) EVALUATION

The ALPP is an [Executive Order](#) (as opposed to a statute) and requires that PennDOT and all other Executive Agencies under the Governor’s jurisdiction seek to mitigate and protect against the conversion of prime agricultural land. The ALPP relates specifically to prime agricultural land and operates as a separate regulatory requirement over the same or similar resources (farmland) that are classified in other statutes or regulations such as Acts 100/43 and FPPA. PennDOT established a policy that requires an analysis of whether an avoidance alternative to conversion exists and/or whether impacts to prime agricultural land can be minimized.

NOTE: Projects may be subject to the ALPP without being subject to Act 100/Act 43, but all projects that are subject to Act 100/Act 43 are required to address impacts to prime agricultural land in accordance with ALPP.

The ALPP specifically requires PennDOT, when an applicant to ALCAB, to present an analysis of the five ALPP priority categories for ALCAB to consider prior to making a decision on condemnation approval. As a result, PennDOT prepares a specific analysis of its project under the ALPP for inclusion in the NEPA/PA Act 120 document and in the FAR and presentation at the ALCAB hearing, if required.

The initial task for ALPP evaluation is to determine whether prime agricultural land is present in the study area.

A. Data Collection

Refer to [Section III.B.2. Data Collection and Impact Assessment](#) and [Table 3: Agricultural Data and Sources Information](#) for an overview of data collection methods used for agricultural resources.

As per the ALPP (4 PA Code 7.301 et seq.), prime agricultural land includes land currently in active agricultural use that has been devoted to active agricultural use for the preceding three years (as determined from interviews, aerial photography, etc.) and falls into one of five categories (listed according to priority):

1. *Preserved farmland (easements) – includes farmland restricted solely for agricultural use by a) an agricultural easement or b) deed restriction;*
2. *Agricultural Security Areas (ASAs);*
3. *Farmland enrolled in preferential tax assessment programs (to encourage open space uses and discourage conversion to other uses) – this specifically refers to farmland enrolled in Act 319 of 1974, as amended (Clean and Green), or Act 515 of 1966, as amended;*
4. *Farmland planned for agricultural use and subject to effective agricultural zoning – designated as such in a comprehensive plan and/or zoning ordinance adopted pursuant*

to Act 247 of 1968, as amended (the Municipalities Planning Code) that delineates an area of agriculturally valuable soils and existing farms; and

5. *Farmland classified as unique farmland or soil capability Class I, II, III and IV land – soil capability Classes are identified by the County Soil Survey and USDA-NRCS.*

PennDOT policy also considers barns and other agricultural buildings, land lying fallow due to crop rotation, and subsistence farms where the farm operator has land in agricultural production for his own “subsistence” use rather than primarily for commercial purposes. Land that is fallow due to participation in USDA conservation reserve enhancement programs, nutrient management programs, subsidy programs, or commodity support programs is considered to be land in agricultural production because it would be in production under normal circumstances. Land farmed by tenant farmers for production, for commercial purposes, is also considered PAL. Land used for the purposes of growing timber is not considered land in agricultural production under any governing laws.

Additional information may also be obtained from property owners and/or farm operators as described below if necessary (interviews are not always needed for ALPP coordination if enough information is publicly available):

Property owners - Owners of land in agricultural production within the study area should be contacted and interviewed. Dialogue with landowners is essential to provide notice of investigations and to obtain detailed information regarding farm operations. Interviewing agricultural landowners serves to verify property ownership, productive status, and current farm operator(s). An interview may not be necessary if it can be determined without an interview that the land has been in agricultural production for the preceding three years.

Farm operators - Interviews with farm owners and/or operators are not necessary for ALPP if enough information is available to map agricultural resources according to the priority categories. If enough information isn't publicly available, interviews should be conducted. Pertinent information from interviews conducted as part of the ALCAB process, if required, should be included in the ALPP Evaluation. An interview may not be necessary if it can be determined without an interview that the land has been in agricultural production for the preceding three years.

Interview forms and mapping will assist the dialogue and ensure that all necessary information is collected during the initial interview. In addition, use of a form will also ensure that consistent information is collected from all farmers. An example of an interview form is included as [Figure 6](#).

The purpose of identifying resources and collecting information is to quantify the direct and indirect impacts of the project on agricultural resources. Information obtained is both qualitative and quantitative in nature. The results of the data collection and impact assessment will associate agricultural resources with particular land owners and operators, farming practices, and production.

Information collected from the various sources should be used to prepare the environmental features mapping for the project. The mapping should depict the approximate boundaries of the agricultural resources that act as constraint thresholds (resources that would inhibit the

construction of an alternative in a particular area). Land in agricultural production and prime agricultural land (as denoted by the ALPP) will always be considered constraint thresholds. Agricultural land boundaries should correspond to the limits of active land identified through aerial photo review, agency coordination, and field reconnaissance and should be identified with a particular farm operation. Prime agricultural land should be depicted separately from PAL. Although the resources are similar, each is a separate regulatory scheme. Different types of prime agricultural land (easements, ASAs, special tax status, etc.) may be represented by different graphical elements (i.e. different line types or color). Since agricultural parcels often follow property lines, constraints base mapping should illustrate tax parcel boundaries whenever possible. If a property falls under more than one category under ALPP, it should be mapped according to the highest priority category. Refer to [Figure 9](#) for an example of mapping ALPP categories.

B. Impact Assessment

The environmental features mapping should be utilized to determine agricultural impacts associated with each alternative considered. Impact analysis for prime agricultural land afforded protection under the ALPP should be presented according to the hierarchy established in the policy. Calculations of impacts should be based upon the required ROW developed for the project. Results of this assessment are combined with the impact results from all the socioeconomic and environmental features identified to determine the overall impact of each alternative considered. All methods and results of impact assessment should be recorded in the project file.

If a small project, such as a bridge replacement or an intersection improvement, will affect agricultural resources, the project team should consider avoidance at an early stage; however, avoidance is not always possible for two reasons:

1. The project study area is often limited to the area immediately surrounding the existing facility.
2. Other environmental features may not make a complete avoidance alternative practicable.

The impacts should still be calculated for each priority level and kept with the technical support data.



Decision-Making Point: Can Prime Agricultural Land be Avoided?

If prime agricultural land will be affected, then avoidance should be considered. Potential avoidance alternatives should be evaluated for their ability to meet the project needs and their affects to other environmental features in the project area. As with avoidance alternatives considered under Act 100 and Act 43, avoidance alternatives that do not meet the project needs or result in substantial impact to other resources, would not warrant further consideration. The investigation of avoidance alternatives is documented in the technical support data and summarized in the NEPA/PA Act 120 document.

C. Consider Minimization Measures

If there is no feasible alternative to the use of prime agricultural land, the project team should consider ways to minimize impacts. Minimization measures should give consideration to the priority rankings established in the ALPP. In this manner, impacts to land with an agricultural conservation easement or deed restriction (highest priority) would be minimized first, impacts to land in ASAs (second highest priority) second, and so forth.

The design team should consider minimization measures, as appropriate, in developing the Build Alternative. Typical minimization efforts include localized alignment shifts away from high-priority resources, agricultural buildings, and highly productive land. Particular features to consider when developing minimization measures include water lines (domestic and agricultural), equipment access routes to parcels, livestock access routes to grazing and feeding stations, underground drainage lines, location of the most productive parcels, and fencing and/or livestock containment structures. Shifts may reduce the number of bisected parcels, therefore reducing the amount of indirect impacts to specific operations. Attempts to minimize impacts sometimes raise questions about existing conditions, so additional coordination with agencies, owners, or operators may be necessary. While attempting to minimize agricultural impacts, the design team must take into account other sensitive features within the project areas such as wetlands, streams, etc.

If questions or concerns are raised regarding the significance of the impact to prime agricultural land or to the level of public opposition, contact BOPD-EPDS for technical assistance.

D. Summarize in NEPA/PA Act 120 Document

ALPP findings must be summarized in the appropriate NEPA/PA Act 120 document, the technical support data, and the FAR, if a FAR is prepared. Information in the NEPA/PA Act 120 document should include a description of the existing agricultural conditions, as well as impacts to the agricultural resources, avoidance considered, and minimization measures. The information should be presented so that the impact, if any, to each of the priorities outlined in the ALPP is addressed. If Act 100/Act 43 is applicable to the project, information regarding the ALPP evaluation process and findings must also be summarized in the FAR, assuming one is prepared.

If a CEE is being prepared in the CE Expert System for the project and the project is in compliance with ALPP, check the box for “Agricultural Land Preservation Policy Conformance Statement”. Within the remarks include the following information:

1. Identify and list the acreage of land impacted for each of the five priority categories.
2. Indicate why there is no feasible alternative to impacting ALPP protected land. Potential reasons include:
 - a. All alternatives result in impacts to agricultural land
 - b. Significant impacts to other resources
 - c. No alternatives will meet the project need

Information incorporated in the technical support data for ALPP may include the following:

- Maps of land in agricultural production

- Maps of conservation easements
- Maps of ASAs
- A list of study area properties (by tax parcel number) enrolled in Agricultural Security Areas and Act 319/515 programs as per local government, county, and/or state office records;
- Zoning maps when available.
- NRCS list and maps of "prime agricultural land" soils (capability Class I, II, III and IV and unique soils), as available;
- Agricultural resource maps from a comprehensive plan when available;
- Existing and future land use maps from a comprehensive plan when available;
- Completed agricultural land owner/operator interview forms (if necessary);
- A description of the methods and calculations used in impact assessments;
- A description of all minimization efforts pursued and the results of those efforts;
- Pertinent correspondence, meeting minutes, and field view documentation; and
- A list of reference materials.

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Appendices

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Appendix 1

Glossary

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A

Access Route – The route by which a farmer travels to and from fields with agricultural equipment/livestock. Fields which are contiguous with the farmer’s base of operations can usually be directly accessed by means of lanes within the farm. Public roads are usually necessary to reach noncontiguous parcels. Loss of access to residual parcels due to highway corridors can sometimes result in indirect impacts.

Adjacent Property Owners – Any persons who own property next to a defined area, usually adjoining or within the right of way for transportation improvements. Often, adjacent property must be acquired for transportation purposes or for other related uses such as storm water facilities, noise barriers, wetland mitigation, etc.

Aerial Photography – High resolution photographs taken from aircraft, which are used to assess features in a study area and which are also used to produce topographic base maps of varying scales for alignment studies, engineering, and final design work.

Affected Environment – The physical features, land, area, or areas to be influenced, affected or created by an alternative alignment under consideration; also includes various social and environmental factors and conditions pertinent to an area.

Agency Coordination – Refers to the process whereby the Department of Transportation contacts, consults, and maintains communication with various public and environmental resource agencies, affording such agencies an opportunity to review and comment upon specific transportation proposals.

Agricultural Land Easements (ALE) – USDA-NRCS works with eligible partners who purchase Agricultural Land Easements (ALE) that protect the agricultural use and conservation values of eligible land. ALEs can help farmers and ranchers keep their land in agriculture. The program also protects grazing land by conserving grassland, rangeland, pastureland and shrubland. Eligible partners include Indian tribes, state and local governments and non-governmental organizations, such as Land Trusts that have farmland or grassland protection programs. USDA-NRCS does not work directly with landowners for ALE; instead NRCS provides financial assistance to entities that have existing land trust or protection programs.

Agricultural Land Preservation Policy (ALPP) – The [4 Pa Code chapter 7, § 7.301 et seq., Executive Order 2003-2](#) that outlines an agricultural preservation policy that all state agencies must support. Classifies the state’s [prime agricultural land](#) into five priorities. Developed to protect [prime agricultural land](#) from irreversible conversions to uses that results in its loss as an environmental and essential food production resource.

Agricultural Lands Condemnation Approval Board (ALCAB) – A six-person, independent administrative board with jurisdiction over the condemnation of productive agricultural lands in Pennsylvania. The Board reviews requests for condemnation made by the Department of Transportation and determines whether there is a “reasonable and prudent alternative” to the use of such lands for transportation purposes. See [Appendix 2](#) for a more detailed description of the Board.

Agricultural Parcel – The term used in agricultural resource studies to refer to a piece of productive agricultural land that is distinguished from other such pieces due to physical separation or difference in land use. Agricultural parcel is not synonymous with property or tax parcel. A single agricultural parcel can be part of a property, or include parts of two contiguous properties, or coincide with a property.

Agricultural Security Area (ASA) – Special areas created at the municipal level and comprising at least 250 acres of viable agricultural land, which may be comprised of noncontiguous tracts that are at least 10 acres in size or a farm parcel less than 10 acres that has an anticipated yearly gross income from agricultural production of at least \$2000.00. An ASA may exist in more than one local government unit for the same parcel. ALCAB approval is required for Commonwealth agencies to condemn productive agricultural land within an ASA, except in the case of activities related to existing highways such as, but not limited to, widening roadways, the elimination of curves, or reconstruction.

Agricultural Security Area Advisory Committee – Created at the municipality level when a proposal is made to create an ASA, these committees make recommendations to the municipal governments concerning the creation, renewal, and termination of ASAs. Since they are created and have their charge at the local level, the advisory committees should be included in a public officials' meeting early in the project if needed. See also [Appendix 2](#).

ALCAB Test – Alternatives analysis used to determine if there is a *reasonable and prudent alternative to the condemnation of productive agricultural land*. An alternative is considered prudent if it meets the project needs and an alternative is considered reasonable if it does not result in substantial environmental impacts or costs.

Alternative – One of a number of specific transportation improvement proposals, alignments, options, design choices, etc., in a study. Following detailed analysis, one improvement alternative is chosen for implementation. The term “alternate” is sometimes used interchangeably with “alternative.”

Avoidance Alternative – Any alignment proposal that has been developed, modified, shifted, or downsized specifically in order to avoid affecting one or more resources regarded as significant.

B

Bisected Parcel - A parcel of productive agricultural land which has been divided into two or more pieces by a new transportation corridor. See also [Inaccessible Parcel](#), [Indirect Loss of PAL](#), [Residual Parcel](#), and [Uneconomic Parcel](#).

Bureau of Project Delivery (BOPD) – A major administrative unit of the Pennsylvania Department of Transportation whose engineering staff administers design policy, oversees the Transportation Project Development Process, obtains federal approvals for specific projects, and performs various Quality Assurance functions. Agricultural resource evaluations typically involve coordination with the Environmental Policy and Development Section and Highway Design and Technology Section of the Bureau. See also [Appendix 2](#).

Bureau of Project Delivery, Environmental Policy and Development Section (BOPD-EPDS)

– The division of the Bureau of Project Delivery that is responsible for managing Department environmental programs, including developing and providing environmental policy procedures and technical guidance to other PennDOT offices. See also [Appendix 2](#).

C

Capability Class – Categories used by the USDA, NRCS to designate the suitability of soil types for most farming practices. There are eight capability Classes, which are denoted with the Roman numerals I through VIII. Capability Class I soils have the fewest limitations for agriculture and the widest range of use, while capability Class VIII soils have the most limitations to agricultural use. The capability Class designations are found in the county soil surveys published by the USDA. ALCAB approval is required for Commonwealth agencies to condemn productive agricultural land that is located on capability Class I, II, III, or IV soils.

Categorical Exclusion (CE) – 1. A classification given to federal aid projects or actions that do not have a significant impact on the environment either individually or cumulatively. Categorical Exclusions do not require extensive levels of environmental documentation. 2. The written documentation to support a Class of Action that satisfies federal criteria describing non-significant impacts. Refer to DM-1B for additional information on CEs.

Census of Agriculture – A comprehensive census of farms in the United States published by the U.S. Department of Commerce, Bureau of the Census. The data for each state is published in a separate volume. Since 1982, the census has been taken every five years, collecting data for years ending in 2 and 7. The USDA Census of Agriculture can be accessed at <http://agcensus.usda.gov/index.php/>.

Commercial Farm – Any farm meeting the definition of productive agricultural land which sells at least a portion of the agricultural product derived from the operation.

Commodity Support Programs – Programs run by the USDA for the purpose of supporting the market prices of particular agricultural commodities. There are programs for a variety of commodities, including milk, wheat, feed grains, and others. Typically, a farmer is paid by the USDA for not producing a specific quantity of a particular commodity for a given year. Farmer participation is voluntary.

Comprehensive Plan – The general, inclusive, long-range statement of the future development of a community. The plan is typically a map accompanied by description and supplemented by policy statements that direct future capital improvements in an area.

Conservation Organization – Private, nonprofit organizations which attempt to preserve environmental resources. As used in this handbook, the term refers to those organizations which preserve farmland. A list of such organizations is provided in [Appendix 7](#).

Conservation Reserve Program – A USDA program designed to conserve highly erodible cropland. Farmers are given annual payments in return for taking their highly erodible land out of agricultural production for a minimum of ten years. Essentially, the federal government leases the land and requires a cover crop that may be harvested in the event of a disaster declaration.

Therefore, PennDOT considers this land as land used for productive agricultural purposes. Farmer participation is voluntary.

Consultant – An individual, partnership, or firm with qualified expertise in engineering or environmental disciplines that is contracted by the Department to provide technical services for design and study purposes.

Cooperative Extension – The county-level offices of the Cooperative Extension Service, which assist farmers with specific farming practices, crop production, and agricultural resource conservation. These offices are a useful resource for identifying individual farmers associated with productive agricultural land in the project study area. PA Cooperative Extension information is available at <http://extension.psu.edu/counties>.

Critical Mass – The threshold amount of farmland that is required in an area in order to maintain the viability of farming in that area.

D

Deed Restriction – Clauses in a property deed that restrict the property owner's use of the land. In this handbook, the term refers to deed restrictions intended to preserve land for agricultural use. The restrictions typically prohibit the property owner from developing the land in such a way that the land is irretrievably lost to farming. Commonwealth agencies and county governments can create farmland deed restrictions under the authority of PA Act 43 or PA Act 442. [Conservation organizations](#) can also create deed restrictions through normal real estate transactions. See also [PA Act 43](#), [PA Act 442](#), [Easement](#), and [Preserved Farmland](#).

Detailed Alternatives Analysis (also known as Phase II Alternatives Analysis) – During this phase, those alternatives that are carried for further study following Preliminary Alternatives Analysis are investigated. The ultimate goal of detailed analysis is to select an alternative that satisfies project needs while balancing transportation, community, and environmental objectives. Impacts of each Detailed Alternative are identified and quantified, alternatives are compared on the basis of their consequences, and designs are refined to avoid, minimize, or mitigate impacts. These analyses are presented in the EIS, and in many cases, one alternative is recommended as preferred.

Digital Orthophoto Quadrangles (DOQs) – A digital image of an aerial photograph in which displacements caused by the camera and terrain have been removed. It combines the image characteristics of a photograph with the geometric qualities of a map and is a U.S. Geological Survey publication. The standard DOQ is a black-and-white, or color infrared, 1-meter ground resolution quarter quadrangle image.

Direct Impact/Direct Loss of Productive Agricultural Land – Productive Agricultural Land is directly lost when it is acquired for new right of way. This includes farmland acquired to build transportation facilities as well as productive agricultural land acquired for mitigation sites.

District Engineering Office (DO) – One of 11 Pennsylvania Department of Transportation field offices throughout the state responsible for administering project development, design, construction, and maintenance activities within their geographic region.

Dry Run – Practice sessions with BOPD (EPDS and HDTs), Office of Chief Counsel, and the District Office for the ALCAB hearing. They give presenters the opportunity to rehearse delivery, assess the effectiveness of handouts and graphic displays, discuss strategy for responding to questions, and incorporate any new information.

E

Easement – Development rights held on a property, usually by someone other than the land owner. In this handbook, the term refers development rights acquired by a governmental entity or a [conservation organization](#), via donation or purchase, for the purpose of preserving farmland. Restrictive covenants are placed in a property deed when an easement is acquired. Farmland easements can be acquired under PA Act 43, PA Act 442, Pennsylvania Act 1981-48, or through normal real estate transactions. See also [Deed Restriction](#) and [Preserved Farmland](#).

Effective Agricultural Zoning District – The term used in this handbook to identify farmland planned for agricultural use and subject to effective agricultural zoning. Includes farmland designated for agricultural use in a comprehensive plan and zoning ordinance and adopted pursuant to [Act 247 of 1968, as amended, the Municipalities Planning Code](#), that delineates an area of agriculturally valuable soils and existing farms. These districts comprise the Fourth Priority level in the *Agricultural Land Preservation Policy*. See also the [Agricultural Land Preservation Policy](#).

Environmental – 1) In a scientific context, a combination of external or extrinsic conditions present in nature. 2) In a planning context, a category of analytical studies of aesthetic values, ecological resources, cultural (historical) resources, sociological and economic conditions, etc.

Environmental Assessment (EA) – A document prepared for federally-funded transportation projects that do not fall under categorical exclusion and do not appear to be of sufficient magnitude to require an EIS. An Environmental Assessment provides the analysis and documentation to determine if an EIS or a Finding of No Significant Impact should be prepared. Refer to DM-1B for additional information on EAs.

Environmental Features – Significant resources, facilities, or other features of a study area located in or adjacent to an existing or proposed transportation corridor that serve to restrain, restrict, or prevent the ready implementation of proposed transportation improvements (may include natural or physical resources, important structures, communities facilities, or topographic features).

Environmental Impact Statement (EIS) – As defined in the *CEQ Regulations at 40 CFR 1508.11*, a detailed written report that provides “full and fair discussion of significant environmental impacts and [informs] decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” The *Draft EIS* evaluates a range of reasonable alternatives and their associated impacts and presents a preferred alternative if one option is clearly favored above the others. After Departmental review, the *Draft EIS* is circulated among agencies and the public for comment. Following the Public Hearing held to formally record comments on the *Draft*, a *Final EIS* is prepared incorporating public and agency input and recommending a selected alternative. Refer to DM-1B for additional information on EISs.

Environmental Manager – A professional in each of the Department’s 11 District Offices responsible for overseeing and coordinating District environmental issues and operations, organizing data collected by the District and its consultants regarding natural, socioeconomic, and cultural resources, and assisting in the preparation of [Environmental Impact Statements](#), [Environmental Assessments](#), [Categorical Exclusions](#) and other related studies.

F

Farm – A place where agricultural products are produced by a particular [operator](#). A farm can consist of one tract of land, or of many noncontiguous tracts operated by the same person or group. Farms can be [owner-operated](#), leased, or a combination thereof.

Farm Service Agency (FSA) – Administers and enforces the U. S. Department of Agriculture’s various commodity support and conservation programs, including the Conservation Reserve Program, Wheat/Feed Grain Program, etc. County-level offices of the FSA may provide current aerial photography of productive agricultural land and information on farmers participating in various programs in the project study area. See also [Appendix 2](#). A map with links to all of the county and state USDA, Farm Service Agency contacts is available at <http://offices.sc.egov.usda.gov/locator/app?state=pa&agency=fsa>.

Farmland – A generic term used in this handbook to refer to any kind of agricultural resource. Used interchangeably with “productive agricultural land.” Also as used in Act 515: Any tract or tracts of land in common ownership of at least twenty acres in area, used for the raising of livestock or the growing of crops.

Farmland Conversion Impact Rating (FCIR) – A quantitative assessment of a project’s impacts to [FPPA farmland](#) required in specific circumstances under [7 CFR 658](#). Impacts are measured in points. The rating is documented on a [Form AD-1006](#) or [Form NRCS-CPA-106](#). Guidance on completing the rating analysis is provided in [7 CFR 658](#).

Farmland of Local Importance – Land identified by the concerned local agencies as important for the production of food, feed, fiber, and forage even though it was not designated as farmland of national or statewide importance.

Farmland of Statewide Importance – Land that has been designated by the State Rural Development Committee as being of statewide importance for the production of food, feed, fiber, and forage.

[Farmland Protection Policy Act of 1981 \(FPPA\)](#) – Federal law designed to minimize the conversion of farmland to non-agricultural uses resulting from federally funded projects. All federally funded transportation projects must comply with FPPA.

Farmlands Assessment Report (FAR) – A report produced for transportation projects which will affect lands protected by PA Act 100 or PA Act 43, and for which an ALCAB hearing is required. The report will ultimately be submitted to ALCAB for use in determining whether there is a reasonable and prudent alternative to the condemnation of productive agricultural land for transportation use.

Federal Highway Administration (FHWA) – An agency of the U.S. Department of Transportation responsible for carrying out federal highway and transportation mandates through a network of several regional offices and a division office in each state.

Field View – A site visit conducted by the Department to gather or verify data, define scopes of work, perform analyses, and make decisions for specific projects. Several field views are identified as important steps in the Transportation Project Development Process, as well as the Agricultural Resource Evaluation Process.

Form AD-1006 – A USDA form used to complete a [Farmland Conversion Impact Rating](#) for non corridor projects (ex. intersection, bridge).

Form NRCS-CPA-106 – A USDA form used to complete a [Farmland Conversion Impact Rating](#) for corridor type projects.

FPPA Farmland – A term coined for this handbook to refer to soil types protected by the FPPA and [7 CFR 658](#). FPPA soils include: [prime farmland](#), [unique farmland](#), [farmland of statewide importance](#), and [farmland of local importance](#). The soil types which fall under these categories are determined on a county-level basis by the NRCS. A list of these soils can be obtained from the appropriate [county office of the NRCS](#). See also [Important Farmlands List](#).

H

Hayfield – Fields in which farmers cut tall grass for use as livestock fodder. Hayfields are usually seeded with special grasses, although some farmers use natural meadows for hay. In some cases hay is cut from scrubland or large residential lots. Generally, hayfields are not used to graze livestock.

I

Identification of Alternatives – The Department’s Phase I preliminary engineering and environmental evaluations in which the District Office identifies and chooses an initial set of study alternatives that address the stated program objectives and the project need, and which are sensitive to the resources and land uses of a study area. The process commences with brainstorming or listing a wide variety of possible options, assessing the overall merits and drawbacks, comparing them, and finally choosing those that should be carried forward. Alternatives to be studied normally include the No-Build Alternative, an upgrading of the existing roadway alternative, new transportation routes and locations, transportation systems management strategies, multi-modal alternatives if warranted, and any combination of the above.

Impacts – Positive or negative effects upon the natural or human environment resulting from transportation projects.

Important Farmlands List – A list of soil types compiled by the USDA NRCS which shows the soils classified as [prime farmland](#), [farmland of statewide importance](#), [farmland of local importance](#), and [unique farmland](#). These soil types are protected by the FPPA and 7 CFR 658. There is a separate list for each county. The lists can be obtained from the appropriate [county office of the NRCS](#).

Important Farmlands Map – Maps published by the USDA NRCS which depict the [FPPA farmland](#) in a county. These maps do not show individual soil mapping units.

Impracticable to Farm – A residual farm parcel created by a proposed highway alignment or mitigation site which is too small or too irregularly shaped for the operator to produce a cost effective crop.

Inaccessible Parcel – A [residual parcel](#) created when an agricultural parcel is bisected by a transportation corridor, and which can no longer be accessed by the farmer because the transportation corridor obstructs his/her path to the residual parcel. Although not taken for the transportation corridor right of way, an inaccessible parcel can no longer be farmed and is considered an [indirect loss of productive agricultural land](#).

Indirect Impact/Indirect Loss of Productive Agricultural Land – Productive agricultural land which is lost to agricultural use because it is left as [inaccessible parcels](#) or [uneconomic parcels](#).

L

Land Being Used for Productive Agricultural Purposes – Any land used for production, for commercial purposes, of crops, livestock, and livestock products, including the processing or retail marketing of such crops, livestock, or livestock products if more than 50 percent of such processed or merchandised products are produced by the farm operator.

Crops, livestock, and livestock products which fall under the jurisdiction of ALCAB include but are not limited to the following items:

1. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;
2. Fruits, including apples, peaches, grapes, cherries, and berries;
3. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions, and mushrooms;
4. Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees, and flowers;
5. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, and fur;
6. Aquatic plants and animals and their by-products.

PennDOT policy also considers barns and other agricultural buildings, land lying fallow due to crop rotation, and subsistence farms where the farm operator has land in agricultural production for his own “subsistence” use rather than primarily for commercial purposes. Land that is fallow due to participation in USDA conservation reserve or commodity support programs is considered to be land in agricultural production because it would be in production under normal circumstances.

Land in Agricultural Production – See [Land Being Used for Productive Agricultural Purposes](#)

Land in “Agricultural Use” – Use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. (As in Act 319)

LESA – Land Evaluation and Site Assessment - A Land Evaluation and Site Assessment (LESA) system uses a value for land evaluation and combines it with a value for site assessment to determine the total value of a specific site for agriculture. The higher the total value of a site, the higher the capabilities of that site for agriculture. The LESA system helps units of government to facilitate the identification and protection of important agricultural land and assists in implementing farmland protection policies. A LESA system is in place in Pennsylvania.

M

Mapping – A plane surface graphic or photographic representation of land or water used to depict the study area for a project. Existing alignments, alternatives, engineering design features, and environmental constraints are plotted on various types of mapping. Photogrammetric (aerial) mapping assists for resource identification and studies. Topographic (base) mapping provides a foundation in alignment layout. Property tax maps and traffic data maps are also consulted in the transportation development process. The type and scale of mapping are selected to fit the terrain and land use intensity of the study area, as well as the level of detail of the proposed design.

Mitigation Measures – Specific design commitments made during the environmental evaluation and study process that serve to moderate or lessen impacts deriving from the proposed action. These measures may include planning and development commitments, environmental measures, right of way improvements, and agreements with resource or other agencies to effect construction or post construction action.

N

National Environmental Policy Act (NEPA) – Passed in 1969, this federal legislation requires states to document the environmental impact of transportation projects. Various approaches, steps, and approvals now used in the Pennsylvania Transportation Project Development Process originated with the [National Environmental Policy Act](#).

Natural Resources Conservation Service (NRCS) – Formerly the Soil Conservation Service. The [NRCS](#) is part of the [United States Department of Agriculture](#). Some functions of the NRCS include identifying FPPA farmland, processing Form AD-1006, and providing soil data.

No-Build Alternative – (also known as “No-Action Alternative”) Option of maintaining the status quo by not building transportation improvements. Usually results in eventual deterioration of existing transportation conditions. Serves as a baseline for comparison of Build Alternatives.

O

Operation – An enterprise involving the production of agricultural commodities on farms.

Operator – A person, group, or institution which manages an [operation](#) or [farm](#). An operator can be an individual, a partnership, or a corporation.

Orchard – A grove of fruit-bearing trees used to produce apples, peaches, and other fruits.

Owner-Operator – An [operator](#) who owns the land that he/she farms.

P

PA Act 43 Agricultural Area Security Law – [PA Act 43](#) enables landowners to propose the creation of agricultural areas to local units of government. Voluntary agricultural areas would consist of a minimum of 250 acres of viable farmland. Incentives to encourage farming and disincentives to discourage development in these agricultural areas are provided by the Act. It also authorizes county governments to establish programs for the purchase of agricultural conservation easements.

[PA Act 1979-100](#) – Amendment to the PA Administrative Code which created a six member administrative board called the Agricultural Lands Condemnation Approval Board (ALCAB). The administrative board has approval authority over the condemnation of productive agricultural land for highway purposes (not including activities relating to existing highways). See [Appendix 2](#) for more details on ALCAB.

[PA Act 1976-71](#) – Sewer and water line assessment exemptions are provided to farmers who do not use newly installed lines and continue using the land for agriculture. They must have been used for agricultural production for three years prior to the installation of water or sewer lines.

[PA Act 1970-120](#) – A Pennsylvania Legislative Act passed on May 6, 1970 which in part created the Pennsylvania Department of Transportation and granted it certain powers, duties, and responsibilities. The Act also orders the Department of Transportation to coordinate highway and transportation development projects with other public agencies and authorities. *Section 2002* of the Act states that the Department must issue specific findings whenever lands from recreation areas, wildlife and waterfowl refuges, historic sites, forest, wilderness, game lands, and public parks are needed for highway or transportation purposes.

[PA Act 247](#) (Also known as the Pennsylvania Municipalities Planning Code) – Authorizes municipalities to establish zoning ordinances for the protection and preservation of natural resources and agricultural land. Municipalities are empowered to create zoning districts in which agriculture and related supporting uses are permitted, but other types of land use (non-farm residences, commercial and industrial development, etc.) are prohibited. In this handbook, such zoning districts are referred to as "effective agricultural zoning districts."

[PA Act 319 \(1974\)](#) – In 1973, Pennsylvanians passed a Constitutional Amendment permitting preferential assessment of farmland and forestland. *The Pennsylvania Farmland and Forest Land Assessment Act, PA Act 319* (commonly known as the Clean and Green Act) is a voluntary program and generally requires a minimum of ten acres that will remain in the designated use (productive agriculture, agricultural reserve, forest reserve). This Act is designed to preserve farmland, forest land, and open space by taxing land according to its use rather than the prevailing market value. PA Act 319 is administered by the County Assessment Office. Rules and regulations governing the act are made by the Pennsylvania Department of Agriculture.

[PA Act 442 \(1967\)](#) – PA Act 442 authorizes the state and its counties to preserve, acquire, or hold land for open space use, including farmland. Land may be acquired through purchase, contract, condemnation, or gift. The Commonwealth of Pennsylvania, through the Departments of Environmental Protection and Agriculture, may exercise this Act only with approval of the County Commissioners of the county where the land is located. All property acquired in fee

simple under this Act must be offered for resale publicly within two years of the date of acquisition, subject to restrictive covenants or easements. See also [Appendix 2](#).

[PA Act 515 \(1966\)](#) – PA Act 515 enables Pennsylvania counties to covenant with landowners to preserve land in farm, forest, water supply, or open space by taxing land according to its use value rather than the prevailing market value. The program is voluntary and requires a minimum acreage enrollment that will remain in the designated land use for a period of ten years. PA Act 515, a forerunner to the “Clean and Green Act,” is administered by the Board of County Commissioners.

Pasture – Land used to feed livestock such as cattle, horses, and sheep by means of grazing. Pastures are usually fenced and are usually seeded with special grasses. Some farmers may use scrub land for pasture. Some farmers use pasture rotation schemes in which particular pastures are not grazed for a year in order to allow the soil and grass to rejuvenate.

Preliminary Alternatives Analysis (also known as Phase I Alternatives Analysis) – The initial phase of alternative development, during which the Project Team attempts to choose the most reasonable, practical, cost-effective, technically sound, and environmentally sensitive transportation improvements. A wide range of preliminary study alternatives is developed and evaluated at this time, often based upon secondary source data.

Phase – A major activity, typically requiring one year or more, that involves the collection, organization, and documentation of data, the discharge of specific tasks, and the implementation of certain actions. The five Phases of PennDOT’s Transportation Project Development Process are: Planning, Prioritization/Programming, Preliminary Design, Final Design, and Construction.

Preliminary Design Phase – The third of five Phases of the Transportation Project Development Process which encompasses the major design steps associated with the development and comparison of alternate locations, alternate alignments, detailed engineering and environmental studies, ongoing public and agency interaction, project review, and final project selection of a project alternative.

Preliminary Engineering – Early phases of technical studies undertaken to determine all relevant aspects of transportation location, to identify feasible route alternatives or design options, and to assess various cost and benefit parameters before advancing the project into more detailed final design development.

Preserved Farmland – Land preserved for agricultural use through easements and deed restrictions. See also [Deed Restriction](#) and [Easement](#).

Prime Agricultural Land – A phrase used in the [Agricultural Land Preservation Policy](#) to refer to the types of protected farmland. Prime agricultural land includes land which is currently devoted to active agricultural use and has been for the preceding three years, and which falls into one or more of the following categories:

- (1) farmland preserved through PA Act 43, PA Act 442, or other deed restrictions;
- (2) agricultural security areas;

- (3) farmland enrolled for preferential tax assessments through PA Act 319 or PA Act 515;
- (4) farmland planned for agricultural use and subject to effective agricultural zoning; and
- (5) land classified as unique farmland, or as having a capability Class of I, II, III, or IV.

These five categories of prime agricultural land are ranked in priority, with the greatest protection to be given to preserved farmland.

Prime Farmland – Land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oil seed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. Includes land that possesses the above characteristics, but is being currently used to produce livestock and timber. It does not include land that is already in or committed to urban development or storage.

Productive Agricultural Land – See [Land Being Used for Productive Agricultural Purposes](#)

Project History – A written narrative recounting the origins, development, circumstances, and significant actions associated with a given transportation activity, usually included as part of environmental study documents.

Project Limits – The physical end points of a proposed project, usually designated at geographic or municipal boundaries, at intersections, at roadway segments where cross sections change, or at the beginning or end of numbered state traffic routes.

Project Manager – District Office staff member responsible for supervising the overall process of planning, developing, and implementing one or more phases of a given project.

Q

Qualitative Analysis – A general concept which categorizes a process used in certain types of environmental or route location studies where multiple factors are compared in a systematic and comprehensive manner on the basis of sound judgment. Factors analyzed by using a qualitative analysis are such that they cannot be measured in monetary terms, have no apparent common denominators, and are not readily quantifiable.

Quantitative Analysis – The process used in certain economic, cost-benefit, engineering, or traffic studies where multiple factors, elements, and/or outcomes are evaluated and compared by the use of measurable data. Certain mathematical models, formulas, numerical indices, rankings, and value matrices may be used to assist with such a process.

R

Record of Decision (ROD) – A document prepared by the Division Office of the FHWA that presents the basis for selecting and approving a specific transportation proposal that has been evaluated through the various environmental and engineering studies of the Transportation Project Development Process. Typically, the Record of Decision identifies the alternative selected in the Final EIS, the alternatives considered, measures to minimize harm, monitoring or enforcement programs, and an itemized list of commitments and mitigation measures.

Residual Parcel – A piece of farmland which remains on a property after a portion of the property has been taken for a transportation corridor. In some cases residual parcels remain farmable. In other cases residual parcels can no longer be farmed because they are inaccessible or too small to farm practically. See also [Bisected Parcel](#), [Inaccessible Parcel](#), [Uneconomic Parcel](#).

Right of Way – Land, property, or interest therein acquired for and devoted to transportation purposes, including construction, maintenance, operations, and protection of a facility.

S

Scope of Work – A detailed, written list of tasks prepared in advance of engineering and environmental work to explicitly define the contents of studies. A scope of work is typically provided to prospective consultant firms prior to the initiation of studies to aid them in preparing estimates of working hours, schedules, and costs required to prepare, complete, and deliver all portions of the work described.

Scoping – As defined by the CEQ *Regulations at 40 CFR 1501.7*, the process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action.

Scoping Form – A prepared Department document in the CE Expert System with blanks for the insertion of details or information to define all essential items associated with the evaluation, study, and assessment of a project. The scoping form is used to record initial project data and to make preliminary judgments regarding impact subject areas, assessments of significance, proposed analysis, coordination, and documentation required.

Significant Impacts – Any number of social, environmental, or economic effects or influences that may result from the implementation of a transportation improvement; classified as direct, secondary, or cumulative. The FHWA mandates environmental decision documents based upon the significance of impacts. Categorical Exclusions, for example, are those actions which do not involve significant effects. In most cases, Environmental Impact Statement projects do involve significant impacts.

State Agricultural Land Preservation Board – An administrative board set up by [PA Act 43](#) for the administration of the [Agricultural Conservation Easement Program](#). The state board administers the state program and the county boards administer the county programs. See [Appendix 6](#) for a listing of the county Agricultural Land Preservation Boards.

Statistical Summary – A compilation of statistical data on Pennsylvania agriculture published annually by the [Pennsylvania Agricultural Statistics Service](#).

Study Area – A geographic area selected and defined at the outset of engineering or environmental evaluations, which is sufficiently adequate in size to address all pertinent project matters occurring within it.

Subsistence Farm – A farm operation which produces crops, livestock, or livestock products for use with the operation. No agricultural products derived from the operation are commercially sold.

T

Technical Memorandum – A farmlands technical basis report used in rare situations where PA Act 100 and PA Act 43 do not apply and there is public controversy over the condemnation of productive agricultural land, or there is a large number of farms affected.

Technical Support Data – A compilation of raw data from all of the technical studies (e.g., agricultural resource analyses) conducted for a transportation improvement project.

Tenant Farmer – An **operator** who leases the land which he/she farms.

Transportation Project Development Process – PennDOT's procedures for advancing a transportation improvement project from concept to construction which are divided into five phases, from planning to construction. The philosophy behind the process emphasizes the integration of engineering and environmental studies, and continuous coordination among Department offices, state and federal resource agencies, and the public. The ultimate goal is to select, design, and construct the most reasonable, practical, cost-effective, technically sound, and environmentally sensitive transportation improvement option.

U

Uneconomic Parcel – A [residual parcel](#) which is too small or irregularly shaped to be profitably farmed using normal farming methods.

Unique Farmland – Land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the Secretary of Agriculture. Unique farmland possesses a special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farm methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits, and vegetables.

V

Viability – The technical feasibility and economic profitability of an [operation](#). An operation is viable if it can continue to function and produce an income for the farmer at or near his/her accustomed standard of living.

Viable agricultural land – As defined by the [Agricultural Area Security Law \(PA Act 1981-43\)](#), land suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

Vineyard – Land used to grow grapes.

Appendix 2
Involvement of Agencies and Administrative Boards

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Pennsylvania Department of Transportation (PennDOT)

PennDOT has the responsibility to ensure that it fulfills compliance with the various policies which protect agricultural resources, including the FPPA, Act 100, Act 43, and the Agricultural Land Preservation Policy. In addition, PennDOT must comply with other laws such as the National Environmental Policy Act (NEPA) and PA Act 120. The District Office is primarily responsible for ensuring that compliance with these policies has been fulfilled. The Bureau of Project Delivery (BOPD) also ensures that compliance has been fulfilled through its review role. The BOPD includes the Environmental Quality Assurance Division (BOPD-EPDS) and the Highway Design and Technology Section (BOPD-HDTS), both of which are typically involved in agricultural resource coordination issues, particularly ALCAB.

The BOPD can provide assistance to the District Office in determining which laws or policies apply to a particular project. The District Office may seek assistance in the interpretation of the laws and policies from the Department's Office of Chief Counsel, Real Property Division. If laws apply, BOPD and the Office of Chief Counsel review the Farmlands Assessment Report and assist the District Office in preparing a presentation before ALCAB. The Department is referred to as "the condemner" in ALCAB hearings. The Office of Chief Counsel will take the lead at the ALCAB hearing.

Federal Highway Administration (FHWA)

The role of the FHWA, with regard to agricultural resource investigations, is to ensure that all impacts to the environment are analyzed in accordance with the National Environmental Policy Act (NEPA), and that compliance with the Farmland Protection Policy Act (FPPA) has been fulfilled.

United States Department of Agriculture, Natural Resources Conservation Service (USDA, NRCS)

The [USDA, NRCS](#) is formerly known as the Soil Conservation Service. The NRCS is the agency responsible for identifying FPPA farmland. The NRCS assists agencies in completing and processing Farmland Conversion Impact Rating Forms - [Form AD-1006](#) and [Form NRCS-CPA-106](#). The NRCS also serves as a resource data bank. The [state and county-level offices of the NRCS](#) are a useful resource for county soil survey maps and text, lists of important farmland soils, and important farmland maps. In addition, the NRCS also administers the [Wetland Reserve Program](#). The NRCS offers a variety of technical assistance to landowners who wish to develop and implement conservation plans.

United States Department of Agriculture, Farm Service Agency (USDA, FSA)

The [USDA, FSA](#) has assumed the functions of the defunct Agricultural Stabilization and Conservation Service. The FSA administers and enforces the USDA's various commodity support and conservation programs, such as the [Conservation Reserve Program](#), Wheat/Feed Grain Program, etc. The [county-level offices of the FSA](#) are a useful resource for identifying individual farmers and productive farmland within a study area. These offices have aerial photographs of farmland available for review.

Pennsylvania Department of Agriculture (PDA)

The PDA plays various roles in transportation projects. The PDA is a participating member of Agency Coordination Meetings and provides the project team with input throughout the life of the project. The PDA maintains records of the agricultural security areas (ASAs) and Act 43 easements in the Commonwealth. The agency's [Bureau of Farmland Preservation](#) can be consulted in order to determine whether these agricultural resources exist within a particular area. The PDA is represented by a seat on the ALCAB and will, with the other ALCAB members, determine if there is a reasonable and prudent alternative to the taking of productive agricultural land. Contact information for the PDA is as follows:

Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408
Ph: (717) 787-4737
Website: <http://www.agriculture.pa.gov>

Agricultural Lands Condemnation Approval Board (ALCAB)

The 1979 amendment to the PA Administrative code (hereinafter referred to as [Act 100](#)) created ALCAB as an independent administrative board to determine if there is no reasonable and prudent alternative to the condemnation of productive agricultural land. The Agricultural Area Security Act ([Act 43](#)) extended ALCAB's jurisdiction over condemnation with regard to productive agricultural land contained within approved Agricultural Security Areas.

Under Act 100, ALCAB has jurisdiction over the condemnation of productive agricultural land for highway purposes (not including activities relating to existing facilities) and for the purpose of disposing of solid or liquid waste. Under Act 43, ALCAB has jurisdiction over the condemnation of productive ASA land for any purpose (not including activities relating to existing highways).

ALCAB is comprised of six members, including the Director of the Office of Policy and Planning (or his/her designee), the Secretary of Agriculture (or his/her designee), the Secretary of Environmental Protection (or his/her designee), the Secretary of Transportation (or his/her designee), and two active farmers appointed for a term of four years. The Secretary of Agriculture is the chairperson of the board.

Upon receipt of a request from PennDOT to condemn productive agricultural land, ALCAB has 60 days to render a decision on whether there is a reasonable and prudent alternative to the use of that land. If ALCAB fails to act within that 60-day time frame, PennDOT may act upon the condemnation.

State Agricultural Land Preservation Board

The State Agricultural Land Preservation Board is a 17-member board within the Pennsylvania Department of Agriculture which was established by [Act 43](#) for the purpose of administering the state's agricultural conservation easement purchase program. The State Board approves county easement purchase programs and authorizes the purchase of particular easements by the Commonwealth or counties using state funds.

County Agricultural Land Preservation Board(s)

Each county establishes its own agricultural land preservation board when the county initiates an easement purchase program. The county agricultural land preservation boards administer the [Act 43](#) agricultural conservation easement program at the county level. They also make recommendations to the State Board for the purchase of easements with state funds. An exception to this is Lancaster County, which established its own easement purchase program in 1980 under the authority of [Act 442](#). Lancaster County purchases easements with county funds and does not require approval from the State Board. A list of existing county boards is provided in [Appendix 6](#).

Pennsylvania Department of General Services

The Pennsylvania Department of General Services, Bureau of Real Estate sells Commonwealth-owned land to the public. Each transaction must be approved by the state legislature. Since 1981 the agency has placed deed restrictions on some of these properties before selling them. The deed restrictions limit the use of the properties to open space uses as defined in [Act 442](#), although the law empowering the agency to create the deed restrictions is [Act 1981-48](#). Some of the preserved properties have had restrictive covenants placed on them precisely because they consist of important farmland in productive use. If there is productive agricultural land within a project study area, the Bureau of Real Estate should be consulted to determine whether the agency has placed a deed restriction on the property.

Pennsylvania Department of General Services Bureau of Real Estate

505 North Office Building Harrisburg, PA 17125

Phone: (717) 787-4394

Fax: (717) 772-0526

Website: <http://www.dgs.pa.gov/>

Agricultural Security Area Advisory Committee

Each municipality establishes its own agricultural security area advisory committee when a proposal is made to create an agricultural security area (ASA) within the municipality. The agricultural security area advisory committees make recommendations to the municipal governments concerning the creation, renewal, and termination of ASAs. Since they are created and have their charge at the local level, the advisory committees should be included in a public officials' meeting early in the project if needed.

Cooperative Extension

The [county-level offices of the Cooperative Extension Service](#) assist farmers with specific farming practices, crop production, and agricultural resource conservation. These offices are a useful resource for identifying individual farmers associated with productive agricultural land in the project study area.

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Appendix 3
Requesting a Legal Opinion from the
Office of Chief Counsel – Real Property Division

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Requesting a Legal Opinion from the Office of Chief Counsel – Real Property Division (OCC-RPD)

1. ALCAB Legal Opinions

Questions addressing ALCAB jurisdictional land and the existing highway exemption, as well as ALCAB practice and procedures, should be addressed to OCC-RPD. The most general question in this area – whether ALCAB applies – involves two-part analysis. The first question is whether ALCAB has jurisdiction over the land needed for the project. The second question is whether an exemption from ALCAB jurisdiction is applicable. When requesting advice regarding ALCAB jurisdiction, OCC-RPD must be provided with sufficient, current data regarding the farm operation on the parcel or parcels potentially affected by the project, along with a plan depicting engineering detail to the greatest extent developed as of the date of the request. Similarly, if the issue is the application of the existing highway exemption, sufficient plans must be provided with the request to ascertain within a reasonable degree of engineering certainty if the PAL impact as a result of the proposed project is in the nature of a widening, the elimination of a curve, or a reconstruction of an existing facility.

2. Procedure and Format

Formal requests for a legal opinion must be in writing and may follow a standard PennDOT memorandum format identifying the county, state route (SR) and other pertinent project identification information. The request may be sent to the Chief Counsel or to the Deputy Chief Counsel of the RPD for reply or assignment to a responding attorney. The request may come from the District Environmental Manager, Design Services Engineer or Project Engineer through either the Assistant District Engineer—Design or District Executive. The copy (“cc”) list must include, at a minimum, the District ROW Administrator and the Chief of the BOPD-EPDS. With the exception of FHWA, non-PennDOT personnel should not be included in the formal circulation process for legal opinions.

3. Updates to Legal Opinions in the File

As noted above, an ALCAB matter may involve both environmental and ROW acquisition issues. Due to the lead time inherent in the transportation development process it is not unusual that several written legal opinions may be required over the life of the project in both areas. Coordination is critical in this regard to eliminate any potentially conflicting legal advice. Appropriate counsel in both the environmental and ROW acquisition areas in the OCC will be copied on all legal opinions concerning agricultural lands in an effort to ensure consistency. The very nature of the transportation project development process involves the intended modification, refinement, and on-going development of project alternatives. This reality absolutely requires that prior legal opinions be constantly reviewed during the planning, study, and alternative development process in the event circumstances or project data on which they may have been based are modified or updated.

4. Confidentiality and Attorney-Client Privilege

Written requests for a legal opinion and OCC's reply thereto are subject to the attorney-client privilege and can generally be kept confidential. However, the privilege can be and is often waived by PennDOT. The privilege is waived if the request and opinion are given to someone that does not work for PennDOT. Consultants under contract with PennDOT are covered by the privilege and may receive and use legal opinions. If the opinion is included as part of the environmental file it may become part of the administrative record if there is a lawsuit filed arising from environmental determinations. OCC should be contacted before a legal opinion is disclosed to anyone who does not work for PennDOT. An informed decision can then be made by PennDOT on whether to waive the privilege by providing the opinion.

Appendix 4

FPPA Coordination Documents

**Example Letter, Completed NRCS-CPA-106 Form, and Rationale Worksheet
to Send to NRCS**

Form AD-1006 and Instructions

Form NRCS-CPA-106 and Assessment Criteria

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Example Letter, Form and Rationale Worksheet to Send to NRCS

March 17, 2014

Mr. Scott Heckman, District Conservationist
Natural Resources Conservation Service
Mill Hall Service Center
216 Spring Run Road
Mill Hall, Pennsylvania 17751-9579

REFERENCE: Pennsylvania Department of Transportation, District 2-0
SR 0322, Section PMG (Potters Mills Gap) Project
Potter Township, Centre County, PA

SUBJECT: Farmland Conversion Impact Rating Form

Dear Mr. Heckman:

The Pennsylvania Department of Transportation, as part of the SR 0322, Section PMG (Potters Mills Gap) Project, is proposing improvements to a 3.75-mile long section of Route 322 in Potter Township, Centre County. The project will improve the existing interchange at Sand Mountain Road and extend the limited access highway from Decker Valley Road to a point approximately one-half (1/2) mile west of the existing Route 144/Route 322 intersection. As a result, a new interchange will be constructed at that location. Please refer to the attached Project Summary. Due to the need for additional right-of-way at this location, an Agricultural Resources Investigation was completed and Farmland Policy Act (FPPA) lands were identified.

Enclosed please find one completed copy of the Form AD-1006 - Farmland Conversion Impact Rating, Project Summary and project Location Map for this project and a map of the PMG Alternative. Please note that the site assessment point value is less than 60 (57); therefore, this submission is being made for informational purposes.

Please feel free to contact me at (*phone number*) or via email at (*email address*) if you should have any questions.

Sincerely,

Company
Name
Title

Enclosures (4)

PC: *PennDOT District Project Manager*
PennDOT District Environmental Manager

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NRCS-CPA-106 COMPLETED EXAMPLE AND RATIONALE

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**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request 8/26/13	4. Sheet 1 of 1
1. Name of Project Potters Mills Gap Transportation Project		5. Federal Agency Involved FHWA	
2. Type of Project Transportation-Road		6. County and State Centre County, Pennsylvania	
PART II (To be completed by NRCS)		1. Date Request Received by NRCS	2. Person Completing Form
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>		4. Acres Irrigated Average Farm Size	
5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: %		7. Amount of Farmland As Defined in FPPA Acres: %
8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS	

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly	58.66			
B. Total Acres To Be Converted Indirectly, Or To Receive Services	0			
C. Total Acres In Corridor	58.66			

PART IV (To be completed by NRCS) Land Evaluation Information				
A. Total Acres Prime And Unique Farmland				
B. Total Acres Statewide And Local Important Farmland				
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted				
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value				

PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points				
1. Area in Nonurban Use	15	15			
2. Perimeter in Nonurban Use	10	10			
3. Percent Of Corridor Being Farmed	20	3			
4. Protection Provided By State And Local Government	20	20			
5. Size of Present Farm Unit Compared To Average	10	4			
6. Creation Of Nonfarmable Farmland	25	0			
7. Availability Of Farm Support Services	5	5			
8. On-Farm Investments	20	0			
9. Effects Of Conversion On Farm Support Services	25	0			
10. Compatibility With Existing Agricultural Use	10	0			
TOTAL CORRIDOR ASSESSMENT POINTS	160	57	0	0	0

PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	0	0	0
Total Corridor Assessment (From Part VI above or a local site assessment)		160	57	0	0
TOTAL POINTS (Total of above 2 lines)		260	57	0	0

1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
-----------------------	---	-----------------------	--

5. Reason For Selection:

Signature of Person Completing this Part: _____ DATE _____

NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

(1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent - 15 points
90 to 20 percent - 14 to 1 point(s)
Less than 20 percent - 0 points

(2) How much of the perimeter of the site borders on land in nonurban use?

More than 90 percent - 10 points
90 to 20 percent - 9 to 1 point(s)
Less than 20 percent - 0 points

(3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?

More than 90 percent - 20 points
90 to 20 percent - 19 to 1 point(s)
Less than 20 percent - 0 points

(4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected - 20 points
Site is not protected - 0 points

(5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?

(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)

As large or larger - 10 points
Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points

(6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points

(7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available - 5 points
Some required services are available - 4 to 1 point(s)
No required services are available - 0 points

(8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment - 20 points
Moderate amount of on-farm investment - 19 to 1 point(s)
No on-farm investment - 0 points

(9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted - 25 points
Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
No significant reduction in demand for support services if the site is converted - 0 points

(10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

FPPA Form AD-1006 (NRCS-CPA-106)

I. Assumptions Made:

- The “site” was defined as the area, including non-farmland, directly affected by the proposed project.
- Under Part III.A. Total Acres to be Converted Directly – This acreage equals the acreage of prime farmland and statewide important farmland soils within the project site.
- Under Part III.B. Total Acres to be Converted Indirectly – This acreage includes any areas rendered inefficient to farm and any areas left inaccessible to the farmer.
- Under Part III.C. Total Acres in Site – This equals the total farmland acreage of the parcels affected by the proposed project.

II. Point Value Assignments

The following describes the rationale used in assigning ranking to each of the criteria in Part VI of the AD-1006 (CPA-106) Form. Information was obtained through field observations, USGS Quadrangles, aerial photographs, and coordination with Centre County. In cases where detailed information was not available, a “worst case” scenario was assumed.

Two options are being considered in respect to the interchange at the eastern end of the project area: Potters Mills Gap (PMG) Alternative with Kearns Road Eastern Interchange Option and the PMG Alternative with Sandcrest Road Eastern Interchange Option. The project will be referred to as the Potters Mill Gap Alternative, as neither of the Eastern Interchange Options will impact prime farmland and statewide important farmland soils; and therefore, the impacts are essentially the same.

1. Area in Non-Urban Use

Rating:	>90%	= 15 points
	90%-20%	= 14-1 points
	<20%	= 0 points

Review of aerial photographs, USGS Quadrangle, ASA maps from Centre County and field investigations of the study area were used in making this determination. It was found that approximately 100% of the area within a one-mile radius of the alternative is currently in a non-urban use. The area is comprised of farmland, residential, and commercial property.

A rating of 15 points was assigned to the site.

2. *Perimeter in Non-Urban Use*

Rating:	>90%	= 10 points
	90%-20%	= 9-1 points
	<20%	= 0 points

Review of aerial photographs and field investigations of the study area were used to identify lands adjacent to the project in non-urban use. Approximately all of the lands adjacent to the project are in non-urban use.

A rating of 10 points was assigned to the site.

3. *Percent of Site of Being Farmed*

Rating:	>90%	= 20 points
	90%-20%	= 19-1 points
	<20%	= 0 points

Field investigations and review of aerial photographs were conducted to determine the extent of farming activities within the project area. Approximately 25% of the site is being farmed.

A rating of 3 points was assigned to the site.

4. *Protection Provided by State and Local Government*

Rating:	Site protected	= 20 points
	Site not protected	= 0 points

Centre County tax assessment records, deeds and the Agricultural Preservation Department records were consulted to determine if land within the project area was afforded any form of farmland protection. Based on this coordination, almost all farms within the project area are protected; either in an Agricultural Security Area and/or enrolled in the Act 319 tax assessment program. Since the project would affect farmland under protection, the project was scored as affecting protected farmland.

A rating of 20 points was assigned to the site.

5. *Size of Present Farm Unit Compared to Average*

Rating:	Average or above average	= 10 points
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Below average = 1 point deduction for every 5% below the average farm size down to 0 points if 50% or more below average.

According to the Pennsylvania Department of Agriculture, the average farm size in Centre County is 134 acres (Census of Agriculture, 2007).

Cole Farm is 38.8 acres or 29% of the average farm size, therefore given a rating of 0.

Miller Farm is 216.8 acres or 162% larger than the average farm size, therefore given a rating of 10.

Zuck Farm is 98.18 acres or 71% of the average farm size, therefore given a rating of 4.

Houtz Farm is 3 acres or 2% of the average farm size, therefore given a rating of 0.

Average of the total is 3.5.

Therefore a rating of 4 was assigned to the site.

6. *Creation of Non-Farmable Land*

Rating:	>25%	= 25 points
	>25%-5%	= 24-1 points
	<5%	= 0 points

Under this category, consideration is given to farmed land that would become non-farmable due to lack of access and land that would be impractical to farm due to size or configuration.

The Potters Mills Gap Alternative would divide a parcel of the Miller farm into approximately one 6 acre section and one 22 acre section. This land would be separated from the base of operation due to the proposed interchange but would remain accessible and farmable due to a proposed access road.

Therefore a rating of 0 was assigned to the site.

7. *Availability of Farm Support Services*

Rating:	All required services available	= 5 points
	Some required services available	= 4-1 points
	No required services available	= 0 points

The project area is part of a larger agricultural community which supports all required agricultural services. ***A rating of 5 was awarded for the site.***

8. *On-Farm Investments*

Rating: Substantial amount of on-farm investments = 20 points
Moderate amount of on-farm investments = 19-1 points
No on-farm investments = 0 points

Information regarding the extent of on-farm investments was compiled through field investigations.

The Potters Mills Gap Alternative will not affect or will only impact a minor amount of on-farm investments. **A rating of 0 was assigned.**

9. *Effects of Conversion on Farm Support Services*

Rating: Substantial reduction in demand = 25 points
Some reduction in demand = 24-1points
No reduction in demand = 0 points

The effect on support services was determined by estimating how much the loss of farmland would reduce production output and in turn the needs for existing support services. The farming community in the vicinity of the project is extremely strong with the Potter Township ASA by itself contain over 12,600 acres of farmland (as of September 2013). The alternative will not impact the farms enough to make them non-viable. Combining this with the significant amount of additional farming occurring in the vicinity of the project it is extremely unlikely the project would have a measureable affect on farm support services.

A rating of 0 points was assigned.

10. *Compatibility with Existing Agricultural Use*

Rating: Incompatible: = 20 points
Somewhat compatible = 19-1 points
Compatible = 0 points

The project should not place any new development pressure on neighboring farmlands. The bulk of the neighboring farms are registered within the Salisbury Township ASA. The township has a strong agricultural preservation position and has zoning in place to limit development of farmland.

A rating of 0 points was assigned.

III. Results of Part VI Site Assessment

A total point value of 57 was attained through the assessment steps above for the Project's Preferred Alternative – **the Potters Mills Gap Alternative**. This point total combined with a maximum possible scoring of 100 in Part IV of the form falls below the threshold (160 points) for requiring the development of further avoidance alternatives for the use of FPPA classified farmland. As a result, the proposed project is in compliance with the FPPA and requires no further mitigation measures.

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FORM AD-1006 AND INSTRUCTIONS FOR COMPLETION

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FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request			
Name of Project		Federal Agency Involved			
Proposed Land Use		County and State			
PART II (To be completed by NRCS)		Date Request Received By NRCS		Person Completing Form:	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated	Average Farm Size
Major Crop(s)	Farmable Land In Govt. Jurisdiction Acres: %		Amount of Farmland As Defined in FPPA Acres: %		
Name of Land Evaluation System Used	Name of State or Local Site Assessment System		Date Land Evaluation Returned by NRCS		
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly					
B. Total Acres To Be Converted Indirectly					
C. Total Acres In Site					
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland					
B. Total Acres Statewide Important or Local Important Farmland					
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted					
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value					
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)					
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)			
2. Perimeter In Non-urban Use		(10)			
3. Percent Of Site Being Farmed		(20)			
4. Protection Provided By State and Local Government		(20)			
5. Distance From Urban Built-up Area		(15)			
6. Distance To Urban Support Services		(15)			
7. Size Of Present Farm Unit Compared To Average		(10)			
8. Creation Of Non-farmable Farmland		(10)			
9. Availability Of Farm Support Services		(5)			
10. On-Farm Investments		(20)			
11. Effects Of Conversion On Farm Support Services		(10)			
12. Compatibility With Existing Agricultural Use		(10)			
TOTAL SITE ASSESSMENT POINTS		160			
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100			
Total Site Assessment (From Part VI above or local site assessment)		160			
TOTAL POINTS (Total of above 2 lines)		260			
Site Selected:	Date Of Selection	Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>			
Reason For Selection:					
Name of Federal agency representative completing this form:					Date:

STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM

- Step 1 - Federal agencies (or Federally funded projects) involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form. For Corridor type projects, the Federal agency shall use form NRCS-CPA-106 in place of form AD-1006. The Land Evaluation and Site Assessment (LESA) process may also be accessed by visiting the FPPA website, <http://fppa.nrcs.usda.gov/lesa/>.
- Step 2 - Originator (Federal Agency) will send one original copy of the form together with appropriate scaled maps indicating location(s) of project site(s), to the Natural Resources Conservation Service (NRCS) local Field Office or USDA Service Center and retain a copy for their files. (NRCS has offices in most counties in the U.S. The USDA Office Information Locator may be found at http://offices.usda.gov/scripts/ndISAPI.dll/oip_public/USA_map, or the offices can usually be found in the Phone Book under U.S. Government, Department of Agriculture. A list of field offices is available from the NRCS State Conservationist and State Office in each State.)
- Step 3 - NRCS will, within 10 working days after receipt of the completed form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland. (When a site visit or land evaluation system design is needed, NRCS will respond within 30 working days.
- Step 4 - For sites where farmland covered by the FPPA will be converted by the proposed project, NRCS will complete Parts II, IV and V of the form.
- Step 5 - NRCS will return the original copy of the form to the Federal agency involved in the project, and retain a file copy for NRCS records.
- Step 6 - The Federal agency involved in the proposed project will complete Parts VI and VII of the form and return the form with the final selected site to the servicing NRCS office.
- Step 7 - The Federal agency providing financial or technical assistance to the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

(For Federal Agency)

Part I: When completing the "County and State" questions, list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

Part III: When completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them or other major change in the ability to use the land for agriculture.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities planned build out capacity) that will cause a direct conversion.

Part VI: Do not complete Part VI using the standard format if a State or Local site assessment is used. With local and NRCS assistance, use the local Land Evaluation and Site Assessment (LESA).

1. Assign the maximum points for each site assessment criterion as shown in § 658.5(b) of CFR. In cases of corridor-type project such as transportation, power line and flood control, criteria #5 and #6 will not apply and will, be weighted zero, however, criterion #8 will be weighed a maximum of 25 points and criterion #11 a maximum of 25 points.
2. Federal agencies may assign relative weights among the 12 site assessment criteria other than those shown on the FPPA rule after submitting individual agency FPPA policy for review and comment to NRCS. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total points at 160. For project sites where the total points equal or exceed 160, consider alternative actions, as appropriate, that could reduce adverse impacts (e.g. Alternative Sites, Modifications or Mitigation).

Part VII: In computing the "Total Site Assessment Points" where a State or local site assessment is used and the total maximum number of points is other than 160, convert the site assessment points to a base of 160.

Example: if the Site Assessment maximum is 200 points, and the alternative Site "A" is rated 180 points:

$$\frac{\text{Total points assigned Site A}}{\text{Maximum points possible}} = \frac{180}{200} \times 160 = 144 \text{ points for Site A}$$

For assistance in completing this form or FPPA process, contact the local NRCS Field Office or USDA Service Center.

NRCS employees, consult the FPPA Manual and/or policy for additional instructions to complete the AD-1006 form.

Site Assessment Scoring for the Twelve Factors Used in FPPA

The Site Assessment criteria used in the Farmland Protection Policy Act (FPPA) rule are designed to assess important factors other than the agricultural value of the land when determining which alternative sites should receive the highest level of protection from conversion to non agricultural uses.

Twelve factors are used for Site Assessment and ten factors for corridor-type sites. Each factor is listed in an outline form, without detailed definitions or guidelines to follow in the rating process. The purpose of this document is to expand the definitions of use of each of the twelve Site Assessment factors so that all persons can have a clear understanding as to what each factor is intended to evaluate and how points are assigned for given conditions.

In each of the 12 factors a number rating system is used to determine which sites deserve the most protection from conversion to non-farm uses. The higher the number value given to a proposed site, the more protection it will receive. The maximum scores are 10, 15 and 20 points, depending upon the relative importance of each particular question. If a question significantly relates to why a parcel of land should not be converted, the question has a maximum possible protection value of 20, whereas a question which does not have such a significant impact upon whether a site would be converted, would have fewer maximum points possible, for example 10.

The following guidelines should be used in rating the twelve Site Assessment criteria:

1. How much land is in non-urban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent:	15 points
90-20 percent:	14 to 1 points
Less than 20 percent:	0 points

This factor is designed to evaluate the extent to which the area within one mile of the proposed site is non-urban area. For purposes of this rule, "non-urban" should include:

- Agricultural land (crop-fruit trees, nuts, oilseed)
- Range land
- Forest land
- Golf Courses
- Non paved parks and recreational areas
- Mining sites
- Farm Storage
- Lakes, ponds and other water bodies
- Rural roads, and through roads without houses or buildings
- Open space
- Wetlands
- Fish production
- Pasture or hayland

Urban uses include:

- Houses (other than farm houses)
- Apartment buildings
- Commercial buildings
- Industrial buildings
- Paved recreational areas (i.e. tennis courts)
- Streets in areas with 30 structures per 40 acres
- Gas stations

- Equipment, supply stores
- Off-farm storage
- Processing plants
- Shopping malls
- Utilities/Services
- Medical buildings

In rating this factor, an area one-mile from the outer edge of the proposed site should be outlined on a current photo; the areas that are urban should be outlined. For rural houses and other buildings with unknown sizes, use 1 and 1/3 acres per structure. For roads with houses on only one side, use one half of road for urban and one half for non-urban.

The purpose of this rating process is to insure that the most valuable and viable farmlands are protected from development projects sponsored by the Federal Government. With this goal in mind, factor S1 suggests that the more agricultural lands surrounding the parcel boundary in question, the more protection from development this site should receive. Accordingly, a site with a large quantity of non-urban land surrounding it will receive a greater number of points for protection from development. Thus, where more than 90 percent of the area around the proposed site (do not include the proposed site in this assessment) is non-urban, assign 15 points. Where 20 percent or less is non-urban, assign 0 points. Where the area lies between 20 and 90 percent non-urban, assign appropriate points from 14 to 1, as noted below.

Percent Non-Urban Land within 1 mile	Points
90 percent or greater	15
85 to 89 percent	14
80 to 84 percent	13
75 to 79 percent	12
70 to 74 percent	11
65 to 69 percent	10
60 to 64 percent	9
55 to 59 percent	8
50 to 54 percent	7
45 to 49 percent	6
40 to 44 percent	5
35 to 39 percent	4
30 to 24 percent	3
25 to 29 percent	2
21 to 24 percent	1
20 percent or less	0

2. How much of the perimeter of the site borders on land in non-urban use?

More than 90 percent:	10 points
90 to 20 percent:	9 to 1 point(s)
Less than 20 percent:	0 points

This factor is designed to evaluate the extent to which the land adjacent to the proposed site is non-urban use. Where factor #1 evaluates the general location of the proposed site, this factor evaluates the immediate perimeter of the site. The definition of urban and non-urban uses in factor #1 should be used for this factor.

In rating the second factor, measure the perimeter of the site that is in non-urban and urban use. Where more than 90 percent of the perimeter is in non-urban use, score this factor 10 points. Where less than 20 percent, assign 0 points. If a road is next to the perimeter, class the area according to the

use on the other side of the road for that area. Use 1 and 1/3 acre per structure if not otherwise known. Where 20 to 90 percent of the perimeter is non-urban, assign points as noted below:

Percentage of Perimeter Bordering Land	Points
90 percent or greater	10
82 to 89 percent	9
74 to 81 percent	8
65 to 73 percent	7
58 to 65 percent	6
50 to 57 percent	5
42 to 49 percent	4
34 to 41 percent	3
27 to 33 percent	2
21 to 26 percent	1
20 percent or Less	0

3. How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last ten years?

More than 90 percent:	20 points
90 to 20 percent:	19 to 1 point(s)
Less than 20 percent:	0 points

This factor is designed to evaluate the extent to which the proposed conversion site has been used or managed for agricultural purposes in the past 10 years.

Land is being farmed when it is used or managed for food or fiber, to include timber products, fruit, nuts, grapes, grain, forage, oil seed, fish and meat, poultry and dairy products.

Land that has been left to grow up to native vegetation without management or harvest will be considered as abandoned and therefore not farmed. The proposed conversion site should be evaluated and rated according to the percent, of the site farmed.

If more than 90 percent of the site has been farmed 5 of the last 10 years score the site as follows:

Percentage of Site Farmed	Points
90 percent or greater	20
86 to 89 percent	19
82 to 85 percent	18
78 to 81 percent	17
74 to 77 percent	16
70 to 73 percent	15
66 to 69 percent	14
62 to 65 percent	13
58 to 61 percent	12
54 to 57 percent	11
50 to 53 percent	10
46 to 49 percent	9
42 to 45 percent	8
38 to 41 percent	7
35 to 37 percent	6
32 to 34 percent	5
29 to 31 percent	4
26 to 28 percent	3

23 to 25 percent	2
20 to 22 percent percent or Less	1
Less than 20 percent	0

4. Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected:	20 points
Site is not protected:	0 points

This factor is designed to evaluate the extent to which state and local government and private programs have made efforts to protect this site from conversion.

State and local policies and programs to protect farmland include:

State Policies and Programs to Protect Farmland

1. Tax Relief:

A. Differential Assessment: Agricultural lands are taxed on their agricultural use value, rather than at market value. As a result, farmers pay fewer taxes on their land, which helps keep them in business, and therefore helps to insure that the farmland will not be converted to nonagricultural uses.

1. Preferential Assessment for Property Tax: Landowners with parcels of land used for agriculture are given the privilege of differential assessment.
2. Deferred Taxation for Property Tax: Landowners are deterred from converting their land to nonfarm uses, because if they do so, they must pay back taxes at market value.
3. Restrictive Agreement for Property Tax: Landowners who want to receive Differential Assessment must agree to keep their land in - eligible use.

B. Income Tax Credits

Circuit Breaker Tax Credits: Authorize an eligible owner of farmland to apply some or all of the property taxes on his or her farmland and farm structures as a tax credit against the owner's state income tax.

C. Estate and Inheritance Tax Benefits

Farm Use Valuation for Death Tax: Exemption of state tax liability to eligible farm estates.

2. "Right to farm" laws:

Prohibits local governments from enacting laws which will place restrictions upon normally accepted farming practices, for example, the generation of noise, odor or dust.

3. Agricultural Districting:

Wherein farmers voluntarily organize districts of agricultural land to be legally recognized geographic areas. These farmers receive benefits, such as protection from annexation, in exchange for keeping land within the district for a given number of years.

4. Land Use Controls: Agricultural Zoning.

Types of Agricultural Zoning Ordinances include:

- A. Exclusive: In which the agricultural zone is restricted to only farm-related dwellings, with, for example, a minimum of 40 acres per dwelling unit.
- B. Non-Exclusive: In which non-farm dwellings are allowed, but the density remains low, such as 20 acres per dwelling unit.

Additional Zoning techniques include:

- A. Sliding Scale: This method looks at zoning according to the total size of the parcel owned. For example, the number of dwelling units per a given number of acres may change from county to county according to the existing land acreage to dwelling unit ratio of surrounding parcels of land within the specific area.
- B. Point System or Numerical Approach: Approaches land use permits on a case by case basis.

LESA: The LESA system (Land Evaluation-Site Assessment) is used as a tool to help assess options for land use on an evaluation of productivity weighed against commitment to urban development.
- C. Conditional Use: Based upon the evaluation on a case by case basis by the Board of Zoning Adjustment. Also may include the method of using special land use permits.

5. Development Rights:

- A. Purchase of Development Rights (PDR): Where development rights are purchased by Government action.

Buffer Zoning Districts: Buffer Zoning Districts are an example of land purchased by Government action. This land is included in zoning ordinances in order to preserve and protect agricultural lands from non-farm land uses encroaching upon them.

- B. Transfer of Development Rights (TDR): Development rights are transferable for use in other locations designated as receiving areas. TDR is considered a locally based action (not state), because it requires a voluntary decision on the part of the individual landowners.

6. Governor's Executive Order: Policy made by the Governor, stating the importance of agriculture, and the preservation of agricultural lands. The Governor orders the state agencies to avoid the unnecessary conversion of important farmland to nonagricultural uses.

7. Voluntary State Programs:

- A. California's Program of Restrictive Agreements and Differential Assessments: The California Land Conservation Act of 1965, commonly known as the Williamson Act, allows cities, counties and individual landowners to form agricultural preserves and enter into contracts for 10 or more years to insure that these parcels of land remain strictly for agricultural use. Since 1972 the Act has extended eligibility to recreational and open space lands such as scenic highway corridors, salt ponds and wildlife preserves. These contractually restricted lands may be taxed differentially for their real value. One hundred-acre districts constitute the minimum land size eligible.

Suggestion: An improved version of the Act would state that if the land is converted after the contract expires, the landowner must pay the difference in the taxes between market value for the land and the agricultural tax value which he or she had been

paying under the Act. This measure would help to insure that farmland would not be converted after the 10 year period ends.

- B. Maryland Agricultural Land Preservation Program: Agricultural landowners within agricultural districts have the opportunity to sell their development rights to the Maryland Land Preservation Foundation under the agreement that these landowners will not subdivide or develop their land for an initial period of five years. After five years the landowner may terminate the agreement with one year notice.

As is stated above under the California Williamson Act, the landowner should pay the back taxes on the property if he or she decides to convert the land after the contract expires, in order to discourage such conversions.

- C. Wisconsin Income Tax Incentive Program: The Wisconsin Farmland Preservation Program of December 1977 encourages local jurisdictions in Wisconsin to adopt agricultural preservation plans or exclusive agricultural district zoning ordinances in exchange for credit against state income tax and exemption from special utility assessment. Eligible candidates include local governments and landowners with at least 35 acres of land per dwelling unit in agricultural use and gross farm profits of at least \$6,000 per year, or \$18,000 over three years.

8. Mandatory State Programs:

- A. The Environmental Control Act in the state of Vermont was adopted in 1970 by the Vermont State Legislature. The Act established an environmental board with 9 members (appointed by the Governor) to implement a planning process and a permit system to screen most subdivisions and development proposals according to specific criteria stated in the law. The planning process consists of an interim and a final Land Capability and Development Plan, the latter of which acts as a policy plan to control development. The policies are written in order to:
- prevent air and water pollution;
 - protect scenic or natural beauty, historic sites and rare and irreplaceable natural areas; and
 - consider the impacts of growth and reduction of development on areas of primary agricultural soils.
- B. The California State Coastal Commission: In 1976 the Coastal Act was passed to establish a permanent Coastal Commission with permit and planning authority. The purpose of the Coastal Commission was and is to protect the sensitive coastal zone environment and its resources, while accommodating the social and economic needs of the state. The Commission has the power to regulate development in the coastal zones by issuing permits on a case by case basis until local agencies can develop their own coastal plans, which must be certified by the Coastal Commission.
- C. Hawaii's Program of State Zoning: In 1961, the Hawaii State Legislature established Act 187, the Land Use Law, to protect the farmland and the welfare of the local people of Hawaii by planning to avoid "unnecessary urbanization". The Law made all state lands into four districts: agricultural, conservation, rural and urban. The Governor appointed members to a State Land Use Commission, whose duties were to uphold the Law and form the boundaries of the four districts. In addition to state zoning, the Land Use Law introduced a program of Differential Assessment, wherein agricultural landowners paid taxes on their land for its agricultural use value, rather than its market value.
- D. The Oregon Land Use Act of 1973: This act established the Land Conservation and Development Commission (LCDC) to provide statewide planning goals and guidelines.

Under this Act, Oregon cities and counties are each required to draw up a comprehensive plan, consistent with statewide planning goals. Agricultural land preservation is high on the list of state goals to be followed locally.

If the proposed site is subject to or has used one or more of the above farmland protection programs or policies, score the site 20 points. If none of the above policies or programs apply to this site, score 0 points.

5. How close is the site to an urban built-up area?

The site is 2 miles or more from an urban built-up area	15 points
The site is more than 1 mile but less than 2 miles from an urban built-up area	10 points
The site is less than 1 mile from, but is not adjacent to an urban built-up area	5 points
The site is adjacent to an urban built-up area	0 points

This factor is designed to evaluate the extent to which the proposed site is located next to an existing urban area. The urban built-up area must be 2500 population. The measurement from the built-up area should be made from the point at which the density is 30 structures per 40 acres and with no open or non-urban land existing between the major built-up areas and this point. Suburbs adjacent to cities or urban built-up areas should be considered as part of that urban area.

For greater accuracy, use the following chart to determine how much protection the site should receive according to its distance from an urban area. See chart below:

Distance From Perimeter of Site to Urban Area	Points
More than 10,560 feet	15
9,860 to 10,559 feet	14
9,160 to 9,859 feet	13
8,460 to 9,159 feet	12
7,760 to 8,459 feet	11
7,060 to 7,759 feet	10
6,360 to 7,059 feet	9
5,660 to 6,359 feet	8
4,960 to 5,659 feet	7
4,260 to 4,959 feet	6
3,560 to 4,259 feet	5
2,860 to 3,559 feet	4
2,160 to 2,859 feet	3
1,460 to 2,159 feet	2
760 to 1,459 feet	1
Less than 760 feet (adjacent)	0

6. How close is the site to water lines, sewer lines and/or other local facilities and services whose capacities and design would promote nonagricultural use?

None of the services exist nearer than 3 miles from the site	15 points
Some of the services exist more than one but less than 3 miles from the site	10 points
All of the services exist within 1/2 mile of the site	0 points

This question determines how much infrastructure (water, sewer, etc.) is in place which could facilitate nonagricultural development. The fewer facilities in place, the more difficult it is to develop an area. Thus, if a proposed site is further away from these services (more than 3 miles distance away), the site should be awarded the highest number of points (15). As the distance of the parcel of land to services decreases, the number of points awarded declines as well. So, when the site is equal to or further than 1 mile but less than 3 miles away from services, it should be given 10 points. Accordingly, if this distance is 1/2 mile to less than 1 mile, award 5 points; and if the distance from land to services is less than 1/2 mile, award 0 points.

Distance to public facilities should be measured from the perimeter of the parcel in question to the nearest site(s) where necessary facilities are located. If there is more than one distance (i.e. from site to water and from site to sewer), use the average distance (add all distances and then divide by the number of different distances to get the average).

Facilities which could promote nonagricultural use include:

- Water lines
- Sewer lines
- Power lines
- Gas lines
- Circulation (roads)
- Fire and police protection
- Schools

7. Is the farm unit(s) containing the site (before the project) as large as the average-size farming unit in the county? (Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage of Farm Units in Operation with \$1,000 or more in sales.)

As large or larger:	10 points
Below average: Deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more is below average	9 to 0 points

This factor is designed to determine how much protection the site should receive, according to its size in relation to the average size of farming units within the county. The larger the parcel of land, the more agricultural use value the land possesses, and vice versa. Thus, if the farm unit is as large or larger than the county average, it receives the maximum number of points (10). The smaller the parcel of land compared to the county average, the fewer number of points given. Please see below:

Parcel Size in Relation to Average County Size	Points
Same size or larger than average (100 percent)	10
95 percent of average	9
90 percent of average	8
85 percent of average	7
80 percent of average	6
75 percent of average	5
70 percent of average	4
65 percent of average	3
60 percent of average	2
55 percent of average	1
50 percent or below county average	0

State and local Natural Resources Conservation Service offices will have the average farm size information, provided by the latest available Census of Agriculture data

8. If this site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project	10 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project	9 to 1 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project	0 points

This factor tackles the question of how the proposed development will affect the rest of the land on the farm. The site which deserves the most protection from conversion will receive the greatest number of points, and vice versa. For example, if the project is small, such as an extension on a house, the rest of the agricultural land would remain farmable, and thus a lower number of points is given to the site. Whereas if a large-scale highway is planned, a greater portion of the land (not including the site) will become non-farmable, since access to the farmland will be blocked; and thus, the site should receive the highest number of points (10) as protection from conversion.

Conversion uses of the Site Which Would Make the Rest of the Land Non-Farmable by Interfering with Land Patterns

Conversions which make the rest of the property nonfarmable include any development which blocks accessibility to the rest of the site. Examples are highways, railroads, dams or development along the front of a site restricting access to the rest of the property.

The point scoring is as follows:

Amount of Land Not Including the Site Which Will Become Non-Farmable	Points
25 percent or greater	10
23 - 24 percent	9
21 - 22 percent	8
19 - 20 percent	7
17 - 18 percent	6
15 - 16 percent	5
13 - 14 percent	4
11 - 12 percent	3
9 - 11 percent	2
6 - 8 percent	1
5 percent or less	0

9. Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available	5 points
Some required services are available	4 to 1 point(s)
No required services are available	0 points

This factor is used to assess whether there are adequate support facilities, activities and industry to keep the farming business in business. The more support facilities available to the agricultural

landowner, the more feasible it is for him or her to stay in production. In addition, agricultural support facilities are compatible with farmland. This fact is important, because some land uses are not compatible; for example, development next to farmland can be dangerous to the welfare of the agricultural land, as a result of pressure from the neighbors who often do not appreciate the noise, smells and dust intrinsic to farmland. Thus, when all required agricultural support services are available, the maximum number of points (5) are awarded. When some services are available, 4 to 1 point(s) are awarded; and consequently, when no services are available, no points are given. See below:

Percent of Services Available	Points
100 percent	5
75 to 99 percent	4
50 to 74 percent	3
25 to 49 percent	2
1 to 24 percent	1
No services	0

10. Does the site have substantial and well-maintained on farm investments such as barns, other storage buildings, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment	20 points
Moderate amount of non-farm investment	19 to 1 point(s)
No on-farm investments	0 points

This factor assesses the quantity of agricultural facilities in place on the proposed site. If a significant agricultural infrastructure exists, the site should continue to be used for farming, and thus the parcel will receive the highest amount of points towards protection from conversion or development. If there is little on farm investment, the site will receive comparatively less protection. See-below:

Amount of On-farm Investment	Points
As much or more than necessary to maintain production (100 percent)	20
95 to 99 percent	19
90 to 94 percent	18
85 to 89 percent	17
80 to 84 percent	16
75 to 79 percent	15
70 to 74 percent	14
65 to 69 percent	13
60 to 64 percent	12
55 to 59 percent	11
50 to 54 percent	10
45 to 49 percent	9
40 to 44 percent	8
35 to 39 percent	7
30 to 34 percent	6
25 to 29 percent	5
20 to 24 percent	4
15 to 19 percent	3
10 to 14 percent	2
5 to 9 percent	1
0 to 4 percent	0

11. Would the project at this site, by converting farmland to nonagricultural use, reduce the support for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted	10 points
Some reduction in demand for support services if the site is converted	9 to 1 point(s)
No significant reduction in demand for support services if the site is converted	0 points

This factor determines whether there are other agriculturally related activities, businesses or jobs dependent upon the working of the pre-converted site in order for the others to remain in production. The more people and farming activities relying upon this land, the more protection it should receive from conversion. Thus, if a substantial reduction in demand for support services were to occur as a result of conversions, the proposed site would receive a high score of 10; some reduction in demand would receive 9 to 1 point(s), and no significant reduction in demand would receive no points.

Specific points are outlined as follows:

Amount of Reduction in Support Services if Site is Converted to Nonagricultural Use	Points
Substantial reduction (100 percent)	10
90 to 99 percent	9
80 to 89 percent	8
70 to 79 percent	7
60 to 69 percent	6
50 to 59 percent	5
40 to 49 percent	4
30 to 39 percent	3
20 to 29 percent	2
10 to 19 percent	1
No significant reduction (0 to 9 percent)	0

12. Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of the surrounding farmland to nonagricultural use?

Proposed project is incompatible with existing agricultural use of surrounding farmland	10 points
Proposed project is tolerable of existing agricultural use of surrounding farmland	9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland	0 points

Factor 12 determines whether conversion of the proposed agricultural site will eventually cause the conversion of neighboring farmland as a result of incompatibility of use of the first with the latter. The more incompatible the proposed conversion is with agriculture, the more protection this site receives from conversion. Therefore, if the proposed conversion is incompatible with agriculture, the site receives 10 points. If the project is tolerable with agriculture, it receives 9 to 1 points; and if the proposed conversion is compatible with agriculture, it receives 0 points.

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor-type site or design alternative for protection as farmland along with the land evaluation information.

For Water and Waste Programs, corridor analyses are not applicable for distribution or collection networks. Analyses are applicable for transmission or trunk lines where placement of the lines are flexible.

(1) How much land is in nonurban use within a radius of 1.0 mile form where the project is intended?

- | | |
|--------------------------|-----------------------|
| (2) More than 90 percent | (3) 15 points |
| (4) 90 to 20 percent | (5) 14 to 1 point(s). |
| (6) Less than 20 percent | (7) 0 points |

(2) How much of the perimeter of the site borders on land in nonurban use?

- | | |
|--------------------------|-------------------|
| (3) More than 90 percent | (4) 10 point(s) |
| (5) 90 to 20 percent | (6) 9 to 1 points |
| (7) less than 20 percent | (8) 0 points |

(3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?

- | | |
|--------------------------|----------------------|
| (4) More than 90 percent | (5) 20 points |
| (6) 90 to 20 percent | (7) 19 to 1 point(s) |
| (8) Less than 20 percent | (9) 0 points |

(4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

- | | |
|-----------------------|-----------|
| Site is protected | 20 points |
| Site is not protected | 0 points |

(5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County? (Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage of Farm Units in Operation with \$1,000 or more in sales.)

- | | |
|---|---------------|
| As large or larger | 10 points |
| Below average deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average | 9 to 0 points |

(6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

- | | |
|--|------------------|
| Acreage equal to more than 25 percent of acres directly converted by the project | 25 points |
| Acreage equal to between 25 and 5 percent of the acres directly converted by the project | 1 to 24 point(s) |
| Acreage equal to less than 5 percent of the acres directly converted by the project | 0 points |

(7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available	5 points
Some required services are available	4 to 1 point(s)
No required services are available	0 points

(8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment	20 points
Moderate amount of on-farm investment	19 to 1 point(s)
No on-farm investment	0 points

(9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted	25 points
Some reduction in demand for support services if the site is converted	1 to 24 point(s)
No significant reduction in demand for support services if the site is converted	0 points

(10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland	10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland	9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland	0 points

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NRCS-CPA-106 FORM AND ASSESSMENT CRITERIA

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**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)	3. Date of Land Evaluation Request	4. Sheet 1 of _____
---	------------------------------------	---------------------

1. Name of Project	5. Federal Agency Involved
--------------------	----------------------------

2. Type of Project	6. County and State
--------------------	---------------------

PART II (To be completed by NRCS)	1. Date Request Received by NRCS	2. Person Completing Form
--	----------------------------------	---------------------------

3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form). YES <input type="checkbox"/> NO <input type="checkbox"/>	4. Acres Irrigated Average Farm Size
---	--

5. Major Crop(s)	6. Farmable Land in Government Jurisdiction Acres: _____ %	7. Amount of Farmland As Defined in FPPA Acres: _____ %
------------------	---	--

8. Name Of Land Evaluation System Used	9. Name of Local Site Assessment System	10. Date Land Evaluation Returned by NRCS
--	---	---

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
---	---	--	--	--

	Corridor A	Corridor B	Corridor C	Corridor D
--	-------------------	-------------------	-------------------	-------------------

A. Total Acres To Be Converted Directly				
---	--	--	--	--

B. Total Acres To Be Converted Indirectly, Or To Receive Services				
---	--	--	--	--

C. Total Acres In Corridor				
----------------------------	--	--	--	--

PART IV (To be completed by NRCS) Land Evaluation Information				
--	--	--	--	--

A. Total Acres Prime And Unique Farmland				
--	--	--	--	--

B. Total Acres Statewide And Local Important Farmland				
---	--	--	--	--

C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted				
---	--	--	--	--

D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value				
--	--	--	--	--

PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)				
--	--	--	--	--

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))	Maximum Points			
--	-----------------------	--	--	--

1. Area in Nonurban Use	15			
-------------------------	----	--	--	--

2. Perimeter in Nonurban Use	10			
------------------------------	----	--	--	--

3. Percent Of Corridor Being Farmed	20			
-------------------------------------	----	--	--	--

4. Protection Provided By State And Local Government	20			
--	----	--	--	--

5. Size of Present Farm Unit Compared To Average	10			
--	----	--	--	--

6. Creation Of Nonfarmable Farmland	25			
-------------------------------------	----	--	--	--

7. Availability Of Farm Support Services	5			
--	---	--	--	--

8. On-Farm Investments	20			
------------------------	----	--	--	--

9. Effects Of Conversion On Farm Support Services	25			
---	----	--	--	--

10. Compatibility With Existing Agricultural Use	10			
--	----	--	--	--

TOTAL CORRIDOR ASSESSMENT POINTS	160			
----------------------------------	-----	--	--	--

PART VII (To be completed by Federal Agency)				
---	--	--	--	--

Relative Value Of Farmland (From Part V)	100			
--	-----	--	--	--

Total Corridor Assessment (From Part VI above or a local site assessment)	160			
---	-----	--	--	--

TOTAL POINTS (Total of above 2 lines)	260			
--	------------	--	--	--

1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input type="checkbox"/>
-----------------------	---	-----------------------	--

5. Reason For Selection:

Signature of Person Completing this Part:	DATE
---	------

NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

(1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent - 15 points
90 to 20 percent - 14 to 1 point(s)
Less than 20 percent - 0 points

(2) How much of the perimeter of the site borders on land in nonurban use?

More than 90 percent - 10 points
90 to 20 percent - 9 to 1 point(s)
Less than 20 percent - 0 points

(3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?

More than 90 percent - 20 points
90 to 20 percent - 19 to 1 point(s)
Less than 20 percent - 0 points

(4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected - 20 points
Site is not protected - 0 points

(5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?

(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)

As large or larger - 10 points
Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points

(6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points

(7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available - 5 points
Some required services are available - 4 to 1 point(s)
No required services are available - 0 points

(8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment - 20 points
Moderate amount of on-farm investment - 19 to 1 point(s)
No on-farm investment - 0 points

(9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted - 25 points
Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
No significant reduction in demand for support services if the site is converted - 0 points

(10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

Appendix 5

ALCAB Coordination Examples

ALCAB Request Letter to Secretary of Department of Agriculture

ALCAB Request Letter from PA Department of Agriculture

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PENNSYLVANIA 17120

OFFICE OF
SECRETARY OF TRANSPORTATION

February 25, 2013

Mr. George Greig, Secretary
Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

Dear Secretary Greig:

Please accept this as notice and application from the Department of Transportation to convene the Agricultural Lands Condemnation Approval Board (ALCAB) for the US 30/PA 41 Gap Bottleneck Improvement Project, SR 0030, Section 069, Salisbury Township, Lancaster County, Pennsylvania. This request is in accordance with the provisions of Act 100, the Administrative Code of 1929, as amended, and Act 43, the Administrative Code of 1981, as amended. Twelve (12) copies of the Farmland Assessment Report (FAR) and one electronic CD of the same have been provided to the Department of Agriculture along with this application.

Please transmit seven (7) copies of the FAR and the CD to ALCAB and the remaining five (5) copies of the FAR to the affected agricultural owners/operators. The names and addresses of the owners/operators are enclosed for your use in notifying them of the hearing and distribution of the FAR.

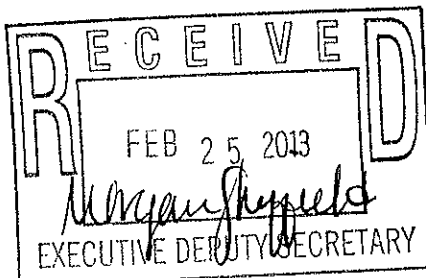
We respectfully request the approval of ALCAB to convert by exercise of the power of condemnation, if necessary, productive agricultural lands to transportation use for the project as proposed by the Department. Kindly advise Daniel B. Stewart, P.E., at 717-787-0456 or by email at danistewar@pa.gov of the time, date, and location of the ALCAB hearing so that we may attend and provide testimony in support of our application for approval. The Department prefers a hearing date within the week of March 25, 2013.

Sincerely,

Barry J. Schoch, P.E.
Secretary of Transportation

Enclosures

12 copies of Farmland Assessment Report
Address List of Owners/Operators



Mr. George Greig, Secretary
February 25, 2013
Page 2

CC: Secretary's Reading File
R. S. Christie, P.E., Deputy Secretary for Highway Administration
C. J. Clements, Esquire, Assistant Counsel-in-Charge, Right-of-Way Section*
M. C. Keiser, P.E., District Executive, Engineering District 8-0
M. S. Gillespie, P.E., Assistant District Executive, Engineering District 8-0
D. J. Smith, Esquire, Department of Agriculture, Office of Chief Counsel
D. M. Wolfgang, Director, Department of Agriculture, Bureau of Farmland Protection
G. C. Fawver, P.E., Chief, Environmental Policy and Development Section
M. D. Lombard, Environmental Policy and Development Section
M. C. Lapano, Senior Project Manager, Engineering District 8-0*
S. E. Okin, Environmental Manager, Engineering District 8-0*
D. J. Azzato, P.E., Chief, Highway Design and Technology Section
D. B. Stewart, P.E., Project Development Engineer, Bureau of Project Delivery*

*with Enclosures

4822/BS/DBS/ses

US 30/PA 41 Gap Bottleneck Improvement Project



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
BUREAU OF FARMLAND PRESERVATION

March 13, 2013

Daniel B. Stewart, P.E.
ADA Coordinator/ Project Development Engineer
Pennsylvania Department of Transportation
400 North Street
Harrisburg, PA 17120

RE: **CONDEMNATION OF PROPERTY LOCATED WITHIN AGRICULTURAL SECURITY
AREAS**
**US-30/ PA-41 Gap Bottleneck Improvement Project, SR 0030, Section 069 –
Salisbury Township, Lancaster County**

ALCAB Request

Dear Mr. Stewart:

At the request of Pennsylvania Department of Transportation Secretary Barry J. Schoch, P.E., the Pennsylvania Agricultural Lands Condemnation Approval Board (ALCAB) will convene for a public hearing pursuant to Act 43 (Agricultural Security Area) and/or Act 100 (productive agricultural lands). The Secretary has requested that approval be granted for the conversion of agricultural lands to highway use. The Secretary directed that you be notified of the date, time and location of this hearing on his behalf.

A hearing to take testimony on this proposed condemnation request has been scheduled for March 27, 2013 at 10:00 A.M. in the Salisbury Township Building, 5581 Old Philadelphia Pike, Lancaster, PA 17527. I have enclosed directions to the hearing site as well a copy of the Public Notice. The Department of Transportation should be prepared to present testimony at this time. This hearing will be conducted in accordance with Pennsylvania Act 100 of 1979 as amended, Act 43 of 1981, as amended, and the General Rules of Administrative Practice and Procedure (1 Pa. Code Chapters 31, 33 and 35).

If you have any questions, concerns, or need additional information, please do not hesitate to contact me at (717) 783-3167. Thank you for your consideration in this matter.

Sincerely,


April R. Orwig
Administrative Officer II

2301 NORTH CAMERON STREET
HARRISBURG, PA 17110-9408
717-783-3167
FAX 717-772-8798

PUBLIC NOTICE

Pursuant to Pennsylvania Act 100 of 1979 as amended and/or Pennsylvania Act 43 of 1981 as amended, the Agricultural Lands Condemnation Approval Board (ALCAB) of the Commonwealth of Pennsylvania will conduct a public hearing on March 27, 2013 beginning at 10:00 a.m. at the Salisbury Township Building located at 5581 Old Philadelphia Pike, Gap, PA 17527, Lancaster County, Pennsylvania.

The purpose of the hearing will be to hear and take testimony and render a decision on a request from the Pennsylvania Department of Transportation for the conversion of productive agricultural lands enrolled in the Agricultural Security Area for the US-30/PA-41 Gap Bottleneck Improvement Project, SR 0030, Section 069. All affected lands are located in Salisbury Township, Lancaster County.

Interested parties and or their legal representatives are encouraged to attend, and may present testimony.

For additional information, contact Douglas Wolfgang, Pennsylvania Department of Agriculture, Bureau of Farmland Preservation, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, (717) 783-3167, dowolfgang@state.pa.us

Appendix 6
County Agricultural Land Preservation Board
Contact Information

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COUNTY AGRICULTURAL LAND PRESERVATION BOARDS

(ALPB) (AS OF 2014) *generally located within the County's Planning Commission or Conservation District

STATE OFFICE

PA Department of Agriculture
Bureau of Farmland Preservation
2301 N. Cameron Street, Room 402
Harrisburg, PA 17110-9408
Ph: 717-783-3167
Fax: 717-772-8798
<http://www.agriculture.pa.gov/Encourage/farmland>

COUNTY OFFICES*

Adams

Adams County Ag Center
670 Old Harrisburg Rd., Suite 100
Gettysburg, PA 17325
Ph: 717-337-5859
Fax: 717-337-0730
<http://www.adamscounty.us/Dept/Conservation/Pages/Ag-Center.aspx>

Allegheny

Allegheny County Farmland Preservation Program
One Chatham Center, Suite 900
112 Washington Place
Pittsburgh, PA 15219
Ph: 412-350-1049
Fax: 412-350-1050
<http://alleghenyfarmland.com/>

Armstrong

Armstrong County ALPB
Armstrong Conservation District
Armsdale Administration Building
Suite B-2
124 Armsdale Road
Kittanning, PA 16201
Ph: 724-545-3628
Fax: 724-545-9012
<http://www.armstrongcd.org/FarmPreservation.html>

Beaver

Beaver County ALPB
Beaver County Courthouse
810 Third Street
Beaver, PA 15009
Ph: 724-770-4429
Fax: 724-775-3915
www.beavercountypa.gov

Bedford

Bedford County ALPB
Bedford County Planning Commission
200 South Juliana Street
Bedford, PA 15522
Ph: 814-623-4827
Fax: 814-623-6455
<http://bedfordcountypa.org/Planning.html>

Berks

Berks County ALPB
1238 County Welfare Rd., Suite 260
Leesport, PA 19533-9199
Ph: 610-378-1844
Fax: 610-378-7983
<http://www.co.berks.pa.us/Dept/DeptofAg>

Blair

Blair County Ag Land Preservation
Blair County Conservation District
1407 Blair Street
Hollidaysburg, PA 16648
Ph: 814-696-0877
Fax: 814-696-9981
http://www.blairconservationdistrict.org/farmland_preservation.htm

Bradford

Bradford County ALPB
Bradford County Conservation District
200 Lake Road, Suite E
Towanda, PA 18848
Ph: 570-265-5539 ext. 114
Fax: 570-265-7435
<http://www.bradfordcountypa.org/Boards-Committees/Farmland-Preservation.asp>

Bucks

Bucks County ALPB
Bucks County Planning Commission
1620 Almshouse Road
Doylestown, PA 18901
Ph: 215-345-3409
Fax: 215-345-3886
<http://www.buckscounty.org/government/CommunityServices/PlanningCommission/OS/AgriculturalPreservation>

Butler

Butler County Ag Land Preservation
Butler County Conservation District
122 McCune Drive
Butler, PA 16001
Ph: 724-284-5270
Fax: 724-285-5515
<http://www.bccdonline.org/Farm.html>

Cambria

Cambria County ALPB
Cambria County Conservation District
401 Candlelight Drive, Suite 221
Ebensburg, PA 15931
Ph: 814-472-2120
Fax: 814-472-0686
<http://www.cambriacountypa.gov/conservation-district.aspx>

Cameron

20 East Fifth Street, Room 105
Coudersport, PA 16915-9683
Ph: 814-274-8522
Fax: 814-274-1787

Carbon

Carbon County ALPB
Office of Farmland Preservation
490 Ore Street, Suite 2
Bowmanstown, PA 18030
Ph: 610-852-5111
Fax: 610-852-5110

Centre

Centre County ALPB
Centre County Planning Office
Willowbank Building
420 Holmes Street
Bellefonte, PA 16823
Ph: 814-355-6791
Fax: 814-355-8661
<http://centrecountypa.gov/index.aspx?nid=281>

Chester

Chester County ALPB
Government Services Center
601 Westtown Road, Suite 390
PO Box 2747
West Chester, PA 19380
Ph: 610-344-5656
Fax: 610-344-4012
<http://www.chesco.org/index.aspx?NID=1367>

Clarion

County Administration Building
330 Main Street, Room 9
Clarion, PA 16214
Ph: 814-297-7813
Fax: 814-226-7893

Clearfield

511 Spruce Street, Suite 6
Clearfield, PA 16830
Ph: 814-765-2629
Fax: 814-765-1336

Clinton

Clinton County Farmland Preservation
Program
11 Mikes Peak Lane
Lock Haven, PA 17745
Ph: 570-893-1223
Fax: 570-893-8655
http://www.clintoncountypa.com/departments/conservation/agricultural_preservation.shtml

Columbia

Columbia County Farmland Preservation
Board
Columbia County FSA Office
702 Sawmill Road, Suite 204
Bloomsburg, PA 17815
Ph: 570-784-1310
Fax: 570-784-3247
<http://www.columbiaccd.org/farmland-preservation.html>

Crawford

Crawford County ALPB
Crawford County Conservation District
Woodcock Creek Nature Center
21742 German Road
Meadville, PA 16335
Ph: 814-763-5269
Fax: 814-763-1585
<http://crawfordconservation.org>

Cumberland

Cumberland County ALPB
Cumberland County Planning Department
310 Allen Road, Suite 101
Carlisle, PA 17013
Ph: 717-240-6537
Fax: 717-240-6517
www.ccpa.net/farmland

Dauphin

Dauphin County Ag Land Preservation
1451 Peters Mountain Road
Dauphin, PA 17018
Ph: 717-921-8100
Fax: 717-921-8276
<http://www.dauphincd.org/ag/alp.html>

Delaware

Delaware County ALPB
Delaware County Conservation District
Rose Tree Park Hunt Club
1521 N. Providence Road
Media, PA 19063
Ph: 610-892-9484
Fax: 610-892-9489
<http://www.delcocd.org/agricultural-preservation/>

Elk

Elk County Courthouse Annex
300 Center Street
Ridgeway, PA 15853
Ph: 814-776-5373
Fax: 814-776-5379

Erie

Erie County ALPB
Erie County Department of Planning
Room 119, Erie County Courthouse
140 West Sixth Street
Erie, PA 16501
Ph: 814-451-7423
Fax: 814-451-7000
<http://www2.erie.gov/environment/index.php?q=agriculture>

Fayette

Fayette County Ag Land Preservation
Office of Planning & Community
Development
Fayette County Courthouse
61 East Main Street
Uniontown, PA 15401
Ph: 724-430-1210
Fax: 724-430-4029
<http://www.co.fayette.pa.us/BoardsandAuthorities/Pages/AgriProg.aspx>

Forest

526 Elm Street, Box 4
Tionesta, PA 16353
Ph: 814-755-3450
Fax: 814-755-3960

Franklin

Franklin County Ag Land Preservation
Franklin County Planning Commission
Administration Annex
218 North Second Street
Chambersburg, PA 17201
Ph: 717-261-3855
Fax: 717-264-8667
http://www.planning.co.franklin.pa.us/agpag_e.html

Fulton

Fulton County Ag Land Preservation
Fulton County Conservation District
216 North Second Street, Suite 15
McConnellsburg, PA 17233
Ph: 717-485-3547 ext. 121
Fax: 717-485-4423
<http://fultoncountyconservationdistrict.org/farmland-preservation-program>

Greene

Greene County Ag Land Preservation
Greene County Conservation District
19 S. Washington Street, Suite 150
Waynesburg, PA 15370
Ph: 724-852-5278
Fax: 724-852-5341
<http://www.co.greene.pa.us/secured/gc2/depts/gccd/FarmlandPreservationPgm.htm>

Huntingdon

Huntingdon County ALPB
Huntingdon County Conservation District
10605 Raystown Road, Suite A
Huntingdon, PA 16652-9603
Ph: 814-627-1627
Fax: 814-627-6831

Indiana

Indiana County Farmland Easement Board
Indiana County Conservation District
625 Kolter Drive, Suite 8
Indiana, PA 15701
Ph: 724-471-4751
Fax: 724-289-1506
<http://www.iccdpa.org/index.php?p=fpprogram&pn=fpn>

Jefferson

1514 Route 28
Brookville, PA 15825
Ph: 814-849-7463
Fax: 814-849-0825

Juniata

Juniata County ALPB
Juniata County Conservation District
146 Stoney Creek Drive, Suite 4
Mifflintown, PA 17059
Ph: 717-436-8953
Fax: 717-436-9128
http://juniataccd.org/programs/ag_land.html

Lackawanna

Lackawanna County Farmland Preservation Program
Lackawanna County Conservation District
1038 Montdale Road
Scott Township, PA 18447
Ph: 570-382-3086
<http://www.lccd.net/farmland-preservation/>

Lancaster

Lancaster County Ag. Preservation Board
150 North Queen Street, Suite 325
Lancaster, PA 17608-3480
Ph: 717-299-8355
Fax: 717-391-7598
<http://web.co.lancaster.pa.us/126/Agricultural-Preservation-Board>

Lawrence

Lawrence County ALPB
2121 Garner Road
Edinburg, PA 16116
Ph: 724-535-7379
Fax: 724-535-7379
<http://lawrencecd.org/programs/agricultural-land-preservation/>

Lebanon

Lebanon County Land Preservation
Lebanon County Conservation District
Lebanon Valley Ag Center
2120 Cornwall Rd., Suite 5
Lebanon, PA 17042
Ph: 717-272-3908
Fax: 717-272-5314
<https://www.lccd.org/programs/agriculture/farmland-preservation/>

Lehigh

Ag Land Preservation Board of Lehigh County
Lehigh County Ag Center
4184 Dorney Park Rd., Suite 107
Allentown, PA 18104-5728
Ph: 610-391-9583
Fax: 610-391-1131
<http://www.lehighcounty.org/Departments/AgriculturalLandPreservation/tabid/59/Default.aspx>

Luzerne

Luzerne County Farmland Preservation Program
Luzerne County Planning Commission
Penn Place
20 North Pennsylvania Avenue
Wilkes Barre, PA 18701
Ph: 570-825-1564
Fax: 570-825-6362
http://www.luzernecounty.org/county/departments_agencies/planning_commission/luzerne-county-farmland-preservation-program

Lycoming

Lycoming County ALPB
Lycoming County Conservation District
542 County Farm Road, Suite 202
Montoursville, PA 17754
Ph: 570-433-3003
Fax: 570-433-3907

McKean

17137 Route 6
Smethport, PA 16749
Ph: 814-887-4001
Fax: 814-887-3234

Mercer

Mercer County ALPB
Mercer County Co-op Extension
463 N. Perry Highway
PO Box 530
Mercer, PA 16137
Ph: 724-662-3141
Fax: 724-662-1933
<http://www.mercercountyagdevelopment.com>

Mifflin

Mifflin County ALPB
Mifflin County Conservation District
20 Windmill Hill #4
Burnham, PA 17009
Ph: 717-248-4695
Fax: 717-248-6589
<http://www.mifflinccd.com/Programs/AgriculturalPrograms/FarmlandPreservationProgram.aspx>

Monroe

Monroe County ALPB
Monroe County Planning Commission
1 Quaker Plaza, Room 106
Stroudsburg, PA 18360-2169
Ph: 570-517-3100
Fax: 570-517-3858
<http://www.monroecountypa.gov/Dept/Planning/Pages/default.aspx>

Montgomery

Montgomery County Farmland Preservation
Montgomery County Planning Commission
One Montgomery Plaza
PO Box 311
Norristown, PA 19404
Ph: 610-278-3754
Fax: 610-278-3941
<http://www.montcopa.org/index.aspx?nid=690>

Montour

Montour County Ag Land Preservation
Montour County Conservation District
14 E. Mahoning St.
Danville, PA 17821
Ph: 570-271-1140
Fax: 570-271-1327
<http://montourccd.com>

Northampton

Northampton County Farmland Preservation
Greystone Building
14 Gracedale Avenue
Nazareth, PA 18064
Ph: 610-746-1993
Fax: 610-746-5262
http://www.northamptoncounty.org/northampton/cwp/view.asp?q=621001&NorthamptonNav_GID=1987&northamptonNav=%7C&northamptonNav_GID=1977

Northumberland

Northumberland County ALPB
Northumberland County Conservation District
441 Plum Creek Road
Sunbury, PA 17801
Ph: 570-495-4665
Fax: 570-988-4488
<http://www.nccdpa.org/programs.php>

Perry

Perry County ALPB
Perry County Conservation District
PO Box 36
31 West Main Street
New Bloomfield, PA 17068
Ph: 717-582-5119
Fax: 717-582-3771
<http://perrycd.org/Pages/Farmland%20Preservation.aspx>

Philadelphia does not have a Conservation District

Pike

Pike County Ag. Land Preservation
837 Route 6, Unit 4
Shohola, PA 18458
Ph: 570-296-3500
Fax: 570-296-3501
<http://www.pikepa.org/alp.html>

Potter

Potter County Ag Land Preservation
Potter County Conservation District
107 Market Street
Coudersport, PA 16915
Ph: 814-274-8411
Fax: 814-274-0396
<http://pottercd.com>

Schuylkill

Schuylkill County ALPB
Schuylkill Conservation District
1206 Ag Center Drive
Pottsville, PA 17901
Ph: 570-622-3742
Fax: 570-622-4009
http://www.schuylkillcd.org/_pages/_departments/Agricultural_Land_Preservation.html

Snyder

Snyder County ALPB
Snyder County Conservation District
10541 Route 522
Middleburg, PA 17842
Ph: 570-837-3000
Fax: 570-837-7300
http://www.snydercounty.org/Depts/Conservation_District/Pages/AgriculturalLandPreservation.aspx

Somerset

Somerset County Farmland Preservation
Somerset County Conservation District
6024 Glades Pike, Suite 103
Somerset, PA 15501
Ph: 814-445-4652
Fax: 814-445-2044
<http://somersetcd.com>

Sullivan

Sullivan County Ag Land Preservation
Sullivan County Conservation District
9219 Route 487, Suite B
Dushore, PA 18614
Ph: 570-928-7057
Fax: 570-928-8258
<http://www.sullcon.com/programs/agriculture.html>

Susquehanna

Susquehanna County ALPB
USDA-NRCS-Ag Preservation
RD 7, Box 7112
Montrose, PA 18801
Ph: 570-278-1011
Fax: 570-278-2648
<http://www.suscondistrict.org/programs.htm>

Tioga

Tioga County ALPB
Tioga County Conservation District
118 Main Street
Wellsboro, PA 16901
Ph: 570-724-1801

Union

Union County Ag. Land Preservation
Union County Conservation District
155 N. 15th Street
Lewisburg, PA 17837
Ph: 570-524-3867
Fax: 570-524-3873

Venango

1793 Cherrytree Road
Franklin, PA 16323
Ph: 814-726-1441
Fax: 814-676-2927

Warren

Warren County Ag. Land Preservation
Warren County Conservation District
300 Hospital Drive, Suite D
Warren, PA 16365
Ph: 814-726-1441
Fax: 814-406-0005
<http://www.wcconservation.net/agriculture/agricultural-land-preservation/>

Washington

Washington County Farmland Preservation
Board
Washington County Planning Commission
100 West Beau Street, Suite 701
Washington, PA 15301
Ph: 724-228-6811
Fax: 724-250-4110
<http://www.co.washington.pa.us/index.aspx?NID=173>

Wayne

Wayne County Ag. Land Preservation
PO Box 134
Promton, PA 18456
Ph: 570-253-8904
<http://waynecolandpreservation.org/>

Westmoreland

Westmoreland County ALPB
214 Donohoe Road, Suite B
Greensburg, PA 15601
Ph: 724-837-8971
<http://www.wcalp.org>

Wyoming

Wyoming County Land Preservation
Wyoming County Conservation District
21 Hollowcrest Road
Tunkhannock, PA 18657
Ph: 570-836-2589
Fax: 570-836-6063
<http://www.wccdpa.org/farmland-preservation.html>

York

York County ALPB
118 Pleasant Acres Road, Suite F
York, PA 17402
Ph: 717-840-7400
Fax: 717-840-7418
<http://yorkcountypa.gov/property-taxes/agricultural-preservation-board.html>

Appendix 7
Private Conservation Organizations Involved in
Farmland Preservation

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PRIVATE CONSERVATION ORGANIZATIONS INVOLVED IN FARMLAND PRESERVATION (AS OF 2014)

NATIONAL ORGANIZATIONS

American Farmland Trust

National Headquarters
1150 Connecticut Avenue, NW, Suite 600
Washington, D.C. 20036
Ph: 800-886-5170
Fax: 202-659-8339
www.farmland.org

American Farmland Trust

Mid-Atlantic Region
1200 18th Street, NW, Suite 800
Washington, D.C. 20036
Ph: 202-378-1235
www.farmland.org

PENNSYLVANIA ORGANIZATIONS

Armstrong County Conservation

PO Box 777
Kittanning, PA 16201-0777
Ph: 724-543-4478
Fax: 724-548-3413

Berks County Conservancy

25 North 11th Street
Reading, PA 19601
Ph: 610-372-4992
Fax: 610-372-2917
www.berks-conservancy.org

Brandywine Conservancy

PO Box 141
Chadds Ford, PA 19317
Ph: 610-388-2700
Fax: 610-388-1575
www.brandywineconservancy.org

Center for Rural Pennsylvania

625 Forster Street, Room 902
Harrisburg, PA 17120
Ph: 717-787-9555
Fax: 717-772-3587
www.ruralpa.org

Land Trust Alliance

1600 L Street NW, Suite 1100
Washington, D.C. 20036
Ph: 202-638-4725
Fax: 202-638-4730
www.lta.org

Trust for Public Land

Northeast Regional Office
660 Pennsylvania Avenue, SE, Suite 401
Washington, D.C. 20003
Ph: 202-543-7552
www.tpl.org

Central Pennsylvania Conservancy
PO Box 587
Harrisburg, PA 17101-0587
Ph: 717-233-0221

Centre County Farmland Trust
420 Holmes Street
Bellefonte, PA 16823
Ph: 814-355-6791
Fax: 814-355-8661
www.centrecountyfarmlandtrust.org

The Clearwater Conservancy
2555 North Atherton Street
State College, PA 16803
Ph: 814-237-0400
www.clearwaterconservancy.org

Conemaugh Valley Conservancy
PO Box 218
Johnstown, PA 15907-0218
www.conemaughvalleyconservancy.org

Conservancy of Montgomery County
PO Box 28
Ambler, PA 19002-0028
Ph: 215-283-0383
www.conservemontco.org

Delaware Highlands Conservancy
PO Box 218
Hawley, PA 18428-0218
Ph: 570-226-3164
Fax: 570-226-3166
www.delawarehighlands.org

Eagles Mere Conservancy
Eagles Mere, PA 17731-0064
Ph: 570-525-3385
Fax: 570-525-3385
<http://eaglesmerepa.org>

Earl Township Farmland Preservation Trust
PO Box 191
New Holland, PA 17557
Ph: 717-354-9312

Earth Conservancy
101 South Main Street
Ashley, PA 18701
Ph: 570-823-3445
Fax: 570-823-8270
<http://earthconservancy.org/>

East Marlborough Land Trust
712 Halden Drive
Kennett Square, PA 19348
Ph: 610-257-6566

Farmland and Forest Conservancy
120 Heiskel Drive
Port Matilda, PA 16870-9444
Ph: 814-238-0245
Fax: 814-238-3540

Farm & Natural Lands Trust of York County
156 N. George Street, Suite 300
York, PA 17401
Ph: 717-843-4411
www.farmtrust.org

French and Pickering Creeks Conservation Trust
511 Kimberton Road
Pottstown, PA 19460
Ph: 610-933-7577
Fax: 610-933-7751
www.frenchandpickering.org

Future of Agriculture in Warren County Task Force
609 Rouse Avenue, Suite 200
Youngsville, PA 16371
Ph: 814-563-9388

Heritage Conservancy

Aldie Mansion
85 Old Dublin Pike
Doylestown, PA 18901
Ph: 215-345-7020
www.heritageconservancy.org

Lancaster Farmland Trust

125 Lancaster Avenue
Strasburg, PA 17579
Ph: 717-687-8484
www.lancasterfarmlandtrust.org

Land Conservancy of Adams County

PO Box 4584
670 Old Harrisburg Road
Gettysburg, PA 17325
Ph: 717-334-2828
www.lcacnet.org

Lower Merion Conservancy

1301 Rose Glen Road
Gladwyne, PA 19035
Ph: 610-645-9030
Fax: 610-645-9031

Loyalhanna Watershed Association

110 Andi Lane
Ligonier, PA 15658
Ph: 724-238-7560
Fax: 724-238-7681
www.loyalhannawatershed.com

**Merrill W. Linn Land and Waterways
Conservancy**

PO Box 501
Lewisberg, PA 17837
Ph: 570-524-8666
<http://linnconservancy.org/>

Montgomery County Lands Trust

690 Harleysville Pike
Lederach, PA 19450
Ph: 215-513-0100
<http://mclt.natlands.org/>

Natural Lands Trust

1031 Palmers Mill Road
Media, PA 19063
Ph: 610-353-5587
Fax: 610-353-0517
www.natlands.org

**The Nature Conservancy (multiple
chapters)**

Pennsylvania Chapter
2101 North Front Street
Building #1, Suite 200
Harrisburg, PA 17110
Ph: 717-232-6001 or 866-298-1267
Fax: 717-232-6061
www.nature.org/ourinitiatives/regions/northamerica/unitedstates/pennsylvania/contact/index.htm

Southeast Pennsylvania

15 East Ridge Pike, Suite 100
Conshohocken, PA 19428
Ph: 610-834-1323 or 800-75-NATURE
Fax: 610-834-3189

Southwest Pennsylvania

PO Box 1432
McMurray, PA 15317
Ph: 412-296-1852

Northeast Pennsylvania

Hauser Nature Center
PO Box 55, Long Pond Road
Long Pond, PA 18334
Ph: 570-643-7922 or 888-560-8700
Fax: 570-321-9096

North Central Pennsylvania

Community Arts Center
220 West Fourth Street, 3rd Floor
Williamsport, PA 17701
Ph: 570-321-9092
Fax: 570-321-9096

Northwest Pennsylvania
c/o Allegheny College
Box 172
520 North Main Street
Meadville, PA 16335
Ph: 814-332-2946
Fax: 814-333-8149

North Branch Land Trust
11 Carverton Road
Trucksville, PA 18708
Ph: 570-696-5545
Fax: 570-696-5546
www.nblt.org

Northcentral Pennsylvania Conservancy
PO Box 2083
Williamsport, PA 17703
Ph: 570-323-6222
Fax: 570-321-1697
www.npcweb.org

Northern Allegheny Conservation Association
PO Box 661
Warren, PA 16365
Ph: 716-726-2424

Pennsylvania Environmental Council (multiple chapters)
Central Regional Office
800 N. 3rd Street, Suite 304
Harrisburg, PA 17102
Ph: 717-230-8044
Fax: 717-230-8045
www.pecpa.org

Northeast Regional Office
175 Main Street
Luzerne, PA 18709
Ph: 570-718-6507
Fax: 570-718-6508

Southeast Regional Office
1315 Walnut Street, Suite 532
Philadelphia, PA 19107
Ph: 215-545-4570
Fax: 215-545-4594

Southwest Regional Office
2124 Penn Avenue, 2nd Floor
Pittsburgh, PA 15222
Ph: 412-481-9400
Fax: 412-481-9401

Pennsylvania Farmland Preservation Association
www.pafarmland.org

Pennsylvania Land Trust Association
119 Pine Street, 1st Floor
Harrisburg, PA 17101
Ph: 717-230-8560
www.conserveland.org

Pocono Heritage Land Trust
PO Box 553
Pocono Pines, PA 18350
Ph: 570-424-1514
www.phlt.org

Edward L. Rose Conservancy
PO Box 8
Montrose, PA 18801
Ph: 570-278-9500
www.elrose.org

Saucon Valley Conservancy
PO Box 3
Hellertown, PA 18055
Ph: 610-838-1199
www.Sauconvalleyconservancy.org

Western Pennsylvania Conservancy (multiple offices)

800 Waterfront Drive
Pittsburgh, PA 15222
Ph: 412-288-2777
Fax: 412-231-1414
www.wpconline.org

Allegheny Regional Office
159 Main Street
Ridgeway, PA 15853

Laurel Highlands Regional Office
PO Box 12
208 West Main Street
Ligonier, PA 15658

Juniata and Potomac Region Conservation Office
405 Allegheny Street, 2nd Floor
Hollidaysburg, PA 16648

Westmoreland Conservancy

1 Priority Lane, #446
Murrysville, PA 15668
Ph: 724-327-3233
www.westmorelandconservancy.org

Wildlands Conservancy

3701 Orchid Place
Emmaus, PA 18049
Ph: 610-965-4397
www.wildlandspa.org

(Additional organizations may exist)

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Appendix 8
Links to Policies and Important Websites

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Links to Policies and Important Websites

(Links are included throughout the Handbook, but are also included here to serve as a central location)

PA Act 1979-100

- A. PA Act 1979-100, The Pennsylvania Administrative Code
<http://www.palrb.us/pamphletlaws/19001999/1979/0/act/0100.pdf>
- B. 1 § 31.1, 31.2, and 31.3 *General Rules of Administrative Practice and Procedures*
<http://www.pacode.com/secure/data/001/chapter31/chap31toc.html>

Agricultural Area Security Law

- A. PA Act 1981-43, Agricultural Area Security Law (as amended)
<http://www.legis.state.pa.us/CFDOCS/LEGIS/LI/uconsCheck.cfm?txtType=HTM&yr=1981&sessInd=0&smthLwInd=0&act=0043.&CFID=144254681&CFTOKE N=81260041>

Agricultural Land Preservation Policy

- A. Executive Order: Agricultural Land Preservation Policy: 2003-02
<http://www.pabulletin.com/secure/data/vol33/33-29/1397.html>
- B. 4 PA. Code Chapter 7, Section 7.301 et seq
<http://www.pacode.com/secure/data/004/chapter7/subchapWtoc.html>

Farmland Enrolled for Preferential Tax Assessment

- A. PA Act of 1974, P.L. 973, No. 319 PA Farmland and Forest Land Assessment Act (as amended)
<http://www.legis.state.pa.us/CFDOCS/LEGIS/LI/uconsCheck.cfm?txtType=HTM&yr=1974&sessInd=0&smthLwInd=0&act=0319.&CFID=144254681&CFTOKE N=81260041>
- B. PA Act of January 13, 1966 (1965) (P.L 1292, No. 515) (as amended)
<http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1965/0/0515..HTM>

Farmland Protection Policy Act

- A. 7 U.S.C § 4201, Farmland Protection Policy Act of 1981
<http://www.gpo.gov/fdsys/pkg/USCODE-2012-title7/pdf/USCODE-2012-title7-chap73.pdf>
- B. 7 CFR 658, Farmland Protection Policy, Final Rule (July 5, 1984) (amended June 17, 1994)
<http://www.ecfr.gov/cgi-bin/text-idx?SID=10ad125802eb62f6b41d4a63ad637f0b&node=7:6.1.3.6.28&rgn=div5>
- C. Part 523 – Farmland Protection Policy Act Manual
http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1049240.pdf

Other Resources:

Act 319 of 1974 -

<http://www.legis.state.pa.us/CFDOCS/LEGIS/LI/uconsCheck.cfm?txtType=HTM&yr=1974&ssInd=0&smthLwInd=0&act=0319.&CFID=150580730&CFTOKEN=38394416>

Form AD-1006 - http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045394.pdf

Form NRCS-CPA-106 -

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1045395.pdf

PA Conservation Districts (County offices can be located through this site) -

<http://pacd.org/your-district/find-your-district/>

PA Cooperative Extensions - <http://extension.psu.edu/counties>

PA Department of Agriculture – Bureau of Farmland Preservation -

<http://www.agriculture.pa.gov/Encourage/farmland>

PA Department of Agriculture – Guide to Farmland Preservation -

<http://www.agriculture.pa.gov/Encourage/farmland/Documents/A%20Guide%20to%20Farmland%20Preservation.pdf>

PA Department of General Services, Bureau of Real Estate - <http://www.dgs.pa.gov/>

PA Geological Survey Library - <http://www.dcnr.state.pa.us/topogeo/library/index.htm>

PA Municipalities Planning Code (Act 247 of 1968, as amended) -

<http://www.legis.state.pa.us/CFDOCS/LEGIS/LI/uconsCheck.cfm?txtType=HTM&yr=1968&ssInd=0&smthLwInd=0&act=0247.&CFID=150580730&CFTOKEN=38394416>

PA Spatial Data Access - <http://www.pasda.psu.edu/>

PennDOT Design Manual Part 1B -

http://www.dot.state.pa.us/public/PubsForms/Publications/PUB%2010/Pub10B_Cover.pdf

U.S. Census Urban Area Maps (2010) - <http://www.census.gov/geo/maps-data/maps/2010ua.html>

USDA, Farm Service Agency County Offices -

<http://offices.sc.egov.usda.gov/locator/app?state=pa&agency=fsa>

USDA-NRCS Pennsylvania Field Offices -

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/pa/contact/>

USDA-NRCS Web Soil Survey - <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

U.S. Geological Survey - <http://www.usgs.gov/>

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Appendix 9
**Pennsylvania Turnpike Commission – Westmoreland
County, Total Reconstruction and Widening between
Mileposts 67 and 75 ALCAB Adjudication and Order**

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
AGRICULTURAL LANDS CONDEMNATION
APPROVAL BOARD**

IN RE: Pennsylvania Turnpike :
Commission - Westmoreland : **Docket No.**
County, Total Reconstruction : **AG-2007-4**
And Widening Between :
Mileposts 67 and 75 :

ADJUDICATION AND ORDER

Date of Hearing: April 24, 2007

**Robert G. Cameron
Hearing Officer**

RECEIVED
PENNSYLVANIA
TURNPIKE COMMISSION

2007 JUN 25 A 9: 22

ENGINEERING
DEPARTMENT

I. FINDINGS OF FACT

1. On March 15, 2007, the Secretary of Agriculture, Dennis C. Wolff, received a request from Frank J. Kempf, Jr., Assistant Chief Engineer, Design, Pennsylvania Turnpike Commission ("PTC") for the Agricultural Lands Condemnation Approval Board ("ALCAB") to approve the Reconstruction/Realignment Alternative as the most prudent alternative for the total reconstruction and widening of the Turnpike between milepost 67 and milepost 75. (ALCAB Exhibit 1)

2. On or before March 26, 2007, a public notice of a public hearing, scheduled by ALCAB to consider the request of the PTC was posted which scheduled the public hearing for April 24, 2007, at 9:00 a.m. at the PTC, Western Regional Office, 220 North Center Avenue, New Stanton, PA, 15672-9602. (ALCAB Exhibit 2)

3. On or about March 26, 2007, notice of the public hearing scheduled for April 24, 2007 at 9:00 a.m. at the PTC, Western Regional Office, 220 North Center Avenue, New Stanton, PA, 15672-9602, was sent to the following affected property owners/operators: Edward McLaughlin, Harry and Carol Brady, Edwin and Elizabeth Uncapher, Robert Whisner, Andrew and Rita Cambruzzi, and Carl and Nancy Logan. All of the return receipts were signed. (ALCAB Exhibit 3)

4. Letters dated March 21, 2007, were sent to the Westmoreland County Court House, New Stanton Borough, Arona Borough, Hempfield Township (both to the Township Manager and to Agricultural Area Advisory Committee), and North Huntingdon Township, notifying them of the ALCAB hearing that was scheduled for April 24, 2007 at 9:00 a.m. at the PTC, Western Regional Office, 220 North Center Avenue, New Stanton, PA, 15672-9602, to consider the request of the PTC to condemn lands necessary for the reconstruction and widening of the Turnpike. (ALCAB Exhibit 4)

5. Letters dated March 21, 2007, were sent to the following ALCAB Board members notifying them of the April 24, 2007, public hearing: Cheryl L. Cook (Pennsylvania Department of Agriculture), Russell M. Warner (Public Member), Larry S. Shifflet (Center for Program Development and Management), Norman Morrison (Public Member), Joanne R. Denworth, Esquire (Senior Policy Manager, Office of the Governor) and Steven W. Taglang (Department of Environmental Protection). (ALCAB Exhibit 5)

6. On or about April 18, 2007, legal notice was published in the Greensburg Tribune Review advising the public of the ALCAB public meeting scheduled for April 24, 2007 at 9:00 a.m. at the PTC, Western Regional Office, 220 North Center Avenue, New Stanton, PA, 15672-9602. (ALCAB Exhibit 6)

7. On or before March 30, 2007, public notices of the public hearing scheduled by ALCAB for April 24, 2007, at 9:00 a.m. at the PTC, Western Regional Office, 220 North Center Avenue, New Stanton, PA, 15672-9602 were posted at the following locations: New Stanton Post Office, New Stanton Borough Office, New Stanton Pharmacy, New Stanton A-Plus Mini Mart, New Stanton Sheetz, and New Stanton Citizens Bank. (ALCAB Exhibit 7)

8. The purpose of the PTC project is to rebuild the 67 year old roadway to a condition reflective of current engineering standards, add capacity to handle continued travel demands and eliminate substandard features. The desired end result is a roadway with a median 26 feet wide and with a typical section to accommodate a six-lanes of travel. (PTC Exhibits 2, 3 and 6)

9. The identified needs for the total reconstruction and widening of the Pennsylvania Turnpike between milepost 67 and milepost 75 include the following:

- a. The main line of the Turnpike from milepost 67 to milepost 75 does not meet current geometric design criteria and presents traffic and safety issues;
- b. The curves of the turnpike eastbound and westbound at mileposts 70 and 72 do not meet current design criteria and present safety issues;
- c. The transportation network is inadequate to serve the projected increase in traffic volume; and
- d. There are safety concerns because of the deficient roadway network.

(PTC Exhibits 2, 4, 5, 7 and 17)

10. The project area is predominantly rural, with residential and commercial development concentrated in and around the western end of the project from Route 30 to the Borough of Arona and the New Stanton interchange. Communities outside the project area but in the immediate vicinity include Jeannette, Greensburg, Adamsburg and Centerville. (PTC Exhibits 1, 8a, 8b, 8c, 11a, 11b, 12, 13, 14 and 16)

11. The project area is comprised of a variety of land uses. Forest land accounts for 44% of the land use while pasture and hay accounts for 26% of the overall land use. Residential and commercial land use accounts for approximately 17% of the project area. (PTC Exhibit 17)

12. The PTC considered a total of ten alternatives. The alternatives from milepost 70 to milepost 72, which involve substandard curves, were considered separately to further minimize impacts to agricultural land. (PTC Exhibits 8a, 8b, 8c, and 9)

13. All of the alternatives considered involve activities on the existing roadway. The specific activities are widening the roadway, elimination of curves, and reconstruction to include bridges. (PTC Exhibits 2, 3, 6, 7, 8a, 8b, 8c, 9, 11a, 11b, 12, 13, 14, and 17)

14. Regarding the majority of the project area (i.e. all areas other than those between mileposts 70 and 72) the PTC considered and dismissed the No-Build Alternative because it did not meet the project needs, congestion and safety concerns would remain, the existing pavement could not be rehabilitated and the substandard design features could not be corrected. Therefore, the No-Build option was dismissed because it was a non-prudent alternative. (N.T. 19)

15. A second alternative for a majority of the project area (with the exception of mileposts 70 through 72) was reconstruction using symmetrical widening. Symmetrical widening would mean that the center line of the Turnpike would be kept and then widening would occur on both sides. The advantages to this alternative included using the current right-of-way and minimizing the impact on the project area, which includes streams and wetlands. The reconstruction alternative also allows for two-phase construction, can be completed quicker and is less costly to build. Further, with reconstruction using symmetrical widening, the seven bridges involved can be built as early action projects. Thus, reconstruction using symmetrical widening (hereinafter referred to as "Reconstruction") was determined to be a reasonable and prudent alternative for the project area with the exception of the area between mileposts 70 and 72. (N.T. 19, 20, 21, 22 and 23; PTC Exhibits 3, 6, 7 and 17)

16. The following alternatives were considered for the project area between mileposts 70 and 72:

- a. A No-Build Alternative was considered. This alternative did not meet project needs and the substandard design would not be eliminated. Thus, the no-build option was dismissed.
- b. Alignments 1 and 2, both of which would involve use of the existing center line, were considered. Both were dismissed since these alignment options did

not meet the design criteria and the project needs were not met. Therefore, Alignments 1 and 2 were dismissed.

- c. Alignments 3a and 3b were considered. Both of these alternatives considered moving the center line approximately 100 to 200 feet south of the existing center line. Alignment 3a was considered unreasonable because of the cost and substantial earth work which included moving 2,557,000 cubic yards of excess waste material. Alignment 3b was considered unreasonable because it would require construction in three phases as well as complex maintenance and traffic protection. Thus, Alignments 3a and 3b were dismissed.
- d. Alignments 3c and 3c-rev both involved the shift to the south of the existing main line. Neither alternative met the design criteria and neither alternative met the project needs. Thus, Alignments 3c and 3c-rev were dismissed.
- e. Alignment 3d was considered and involved a shift to the south of the existing main line. This alignment did not meet design criteria and the project needs were not met. Therefore, this alternative was dismissed from consideration.
- f. Alignment 3b-rev involved moving the center line to the south, but shifting the curve tangent to minimize the extent of construction to avoid encroachment on existing travel lanes. This alignment met the design criteria and project needs, had fewer displacements and generated less waste than alignment 3a and mitigated resource impacts. Thus, Alignment 3b-rev (hereinafter "Realignment") was selected.

(N.T. 19-28; PTC Exhibit 9)

17. Based upon the foregoing and the alternatives considered in Findings of Fact 15 and 16, the PTC requested that ALCAB determine that there is no other reasonable and prudent alternative for the total reconstruction project between mileposts 67 and 75 other than the Reconstruction/Realignment Alternative and that ALCAB approve the Reconstruction/Realignment Alternative. (N.T. 49 and 50; PTC Exhibits 2, 8a, 8b, 8c, and 9)

18. The Reconstruction/Realignment Alternative would impact six farm operations. These six farm operations have a total of 427.9 acres in agricultural production. The land in agricultural production lost to the right-of-way is 5.32 acres. The temporary impact is .57 acres for a total impact of 5.89 acres. The other alternatives, which would have met the design criteria, involved moving the center line approximately 100 to 200 feet and would have resulted in a significantly greater total impact on the land in agricultural production. The Reconstruction/Realignment Alternative does not impact any residences. Also, there are no impacts from loss of access, and there is no land left impractical to farm. (N.T. 33 and 34; PTC Exhibit 10)

19. There are no PA Act 43 conservation easements located within the project area. (PTC Exhibit 17)

20. The PTC has considered the Governor's Agricultural Land Preservation Policy (ALPP) and the Reconstruction/Realignment Alternative will not affect any first level priority lands; will impact only 1.38 acres of second level priority land; will impact zero acres of third level priority land; will only impact 3.9 acres for fourth level priority land and will impact zero acres of fifth level priority land. (PTC Exhibits 15 and 16)

21. The PTC contacted all of the owners and/or operators of farms affected by Reconstruction/Realignment Alternative. The owners and/or operators were interviewed

regarding probable impacts to their operation and ongoing coordination and assessments were conducted with each owner and/or operator. Refinements to avoid or minimize impacts to farmlands were considered and implemented to the degree that engineering restrictions or other constraints would allow. (N.T. 29-46; PTC Exhibits 11a, 11b, 12, 13 and 14)

22. Five of the farm owners and/or operators (Tom Logan, Scott Logan, Nancy Logan, Bob Whisner, Jr., and Bob Whisner, III) appeared and spoke at the hearing regarding the impact of the Reconstruction/Realignment Alternative on their operations. They expressed concern that deciduous hardwoods were not considered a crop and questioned PennDOT design standards regarding guardrails. They also expressed concern regarding a utility easement. Betty Reford with Westmoreland Land Preservation also attended and commented regarding whether mass transit had been taken into consideration when calculating projected traffic volume, whether the speed limit could be lowered, and her belief that the scope of the impact of the project will go beyond the total acres that will be impacted. (N.T. 53 through 72)

23. The Reconstruction/Realignment Alternative meets the current American Association of State Highway Transportation Officials (AASHTO) standards as well as current design and engineering standards. Currently, the project area is substandard and meets the engineering criteria that existed 67 years ago. (N.T. 78 and 79)

II. DISCUSSION

A. The Relevant Law

The relevant portion of the Administrative Code is as follows:

Section 306. Agricultural Lands Condemnation Approval Board.

* * *

d. The board shall have jurisdiction over condemnation for the following purposes: (1) Highway purposes, but not including

activities relating to existing highways such as, but not limited to, widening roadways, elimination of curbs or reconstruction. ...

71 P.S. §106(d).

The relevant portions of Act 43 are as follows:

Section 902. Statement of legislative findings

It is declared policy of the Commonwealth to conserve and protect and to encourage development and improvement of its agricultural lands for the production of food and agricultural products. ...

* * *

It is further the purpose of this Act to:

* * *

(2) Protect farming operations in agricultural security areas from incompatible non-farm land uses that may render farming impracticable.

3 P.S. §902.

Section 913. Limitation on certain governmental actions

* * *

(a) Approval required for condemnation and for certain other actions by an agency of the Commonwealth. – No agency of the Commonwealth having or exercising powers of eminent domain shall condemn for any purpose any land within any agricultural security area which land is being used for productive agricultural purposes (not including the growing of timber) unless prior approval has been obtained in accordance with the criteria and procedures established in this section from the Agricultural Lands Condemnation Approval Board... .

* * *

(d) Review by Agricultural Lands Condemnation Approval Board and other bodies -

* * *

(2)(i) In the case of condemnation for highway purposes (but not including activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curves or reconstruction, for which no approval is required) ... the Agricultural Lands Condemnation Approval Board or other appropriate reviewing body shall approve the proposed condemnation only if it determines there is no reasonable and prudent alternative to the utilization of the land within the agricultural security area for the project.

* * *

3 P.S. §913 (a) and (d)

B. Analysis

1. Jurisdiction

The threshold issue is whether the Agricultural Land Condemnations Approval Board has jurisdiction to consider the PTC's proposal for a project which specifically involves, and is limited to, activities on an existing roadway. Further, the activities proposed for the project (reconstruction, widening, and the elimination of curves) are specifically excluded from ALCAB's jurisdiction by a plain reading of the statutes. 3 P.S. §913(d) and 71 P.S. §106(d). However, a brief review of the jurisdiction of administrative agencies in general, and ALCAB in particular, is in order.

"We begin with the well settled principle that the power and authority to be exercised by administrative agencies must be conferred by the legislature". *Department of Environmental Resources v. Butler County Mushroom Farm*, 454 A.2d 1 (Pa. 1982). "Administrative agencies are creatures of the legislature, however, they have only those powers that are conferred by statute." *Small, et al. v. Horn, Secretary of Department of Corrections*, 722 A.2d 664 (Pa. 1998), citing *Western Pa. Water Co. v. Pennsylvania Pub. Util. Comm'n*, 370 A.2d (Pa. 1977). "The power and authority to be exercised by administrative commissions must be conferred by legislative language clear and unmistakable. A doubtful power does not exist. Such tribunals are extrajudicial. They should act within the strict and exact limits defined." *Pennsylvania Human Relations Commission v. St. Joe Minerals Corporation, Zinc Smelting Division*, 382 A.2d 731 (Pa. 1978) and *The Borough of Blawnox Council v. Olszewski, et al.*, 477 A.2d 1233 (Pa. 1984). " ... [An] administrative agency can only exercise those powers which have been

conferred upon by the legislature in clear and unmistakable language." *Pennsylvania Human Relations Commission v. Transit Casualty Insurance Company*, 387 A.2d 58 (Pa. 1978).

" ... Language capable of more than one meaning can be 'clear and unmistakable' in the context of its usage by the selection of the meaning which is neither forced, strained nor contrary to the purpose for which the authority is conferred. In determining the intended meaning of a word ... we employ the rules of construction of this Commonwealth and accord it 'a common and approved usage' as required under 1 Pa.C.S. §1903(a)." *Department of Environmental Resources v. Butler County Mushroom Farm*, 454 A.2d 1 (Pa. 1982). "One litmus test of the breadth of an administrator's authority is the purpose for which the authority was conferred." *Upper St. Clair Township v. Commonwealth of Pennsylvania, Department of Community Affairs*, 387 A.2d 456 (Pa. 1978).

Thus, it is clear that administrative agencies must only exercise jurisdiction when such jurisdiction has been clearly and expressly provided for the legislature. Further, the creation and/or granting of jurisdiction to administrative agencies in the executive branch is a legislative function. There is no authority for the judicial branch create and/or grant jurisdiction to an administrative agency in the executive branch, particularly when the words of the statute are clear and unmistakable.

The jurisdiction of ALCAB is found in §306 of the Administrative Code, 71 P.S. §106 and §913 of Act 43, 3 P.S. §913. Both sections provide that ALCAB shall have jurisdiction over condemnation for highway purposes; however, both sections also state that ALCAB does not have jurisdiction for activities relating to existing roadways to include widening of the roadways, elimination of curves and reconstruction. It must be noted that the proposed project is on an existing highway, and thus, falls under the statutory exception to ALCAB's jurisdiction. Further

the project involves reconstruction, the elimination of curves and widening the roadway from four lanes to six lanes, all of which are specific, express, and non-exclusive statutory examples limiting ALCAB's jurisdiction. The plain meaning of the words of the statute cannot be ignored. ALCAB does not have jurisdiction to consider this project and the proposed alternative.

Regarding the widening of roadways, ALCAB is mindful of *White v. PennDOT*, 738 A.2d 27 (Pa.Cmwlth. 1999), which addressed the same statutory exceptions at issue in the present matter and stated the following in dicta: "The exceptions qualifying language – such as but not limited to widening roadways, the elimination of curves and reconstruction – clearly contemplates only those activities that take place within the existing road bed. ALCAB has jurisdiction over condemnation for highway purposes, with the exception of activities relating to existing highways that do not go beyond the existing road bed." The language in dicta regarding "activities relating to existing highways that do not go beyond the existing road bed" appears to impermissibly create jurisdiction where it has been expressly limited by statute. If the legislature wanted ALCAB's jurisdiction expanded, the legislature would have made reference to activities that do not go beyond the existing road bed.

Further, the *White* case is clearly and factually distinguishable from the present matter. *White* specifically involved the relocation of highways and the addition of an interchange as well as new ramps and connector roads. None of these activities are involved in the present matter.

To apply the *White* standard in the present matter is irreconcilable with the legislative intent and the rules of statutory construction in that the exception for widening highways would become simply gratuitous language with no meaning. 1 Pa.C.S. 1903(a) and 1921(b). This clearly was not the intent of the legislature as they stated generally stating that ALCAB does not

have jurisdiction for activities relating to existing highways and then gave specific examples. It is reasonable that the legislature intended these examples to have meaning and not be gratuitous.

It is also notable that the dissent in *White* stated that ALCAB does not have jurisdiction over any activity relating to an existing highway. Though ALCAB does not believe it has jurisdiction in the present matter, ALCAB does not believe that such a strict reading of the statute properly balances competing policies of the Commonwealth regarding land preservation for agricultural purposes with commerce needs. Thus, ALCAB's position is that in cases such as the present matter, ALCAB does not have jurisdiction unless there is a significant diversion beyond mere widening (i.e. the project encompasses more than, and goes beyond, the existing roadway). Examples of significant diversions beyond mere widening may include the complete relocation of highways, the addition of an interchange involving new ramps and connector roads, and work that occurs outside of existing right of ways.

Therefore, for the foregoing reasons, ALCAB determines that it has no jurisdiction in the present matter.

2. Decision on the Merits

In the alternative, and in the event that it becomes necessary to have a decision on the merits, then in the interest of judicial economy, ALCAB issues the following decision after reviewing the exhibits and hearing the testimony and comments of the affected parties.

The PTC is requesting approval from the ALCAB for the condemnation of approximately 5.89 acres of productive agricultural land for the Reconstruction/Realignment Alternative and argues that there is no reasonable or prudent alternative to conversion of the productive agricultural land to broaden the Turnpike between milepost 67 (Irwin Interchange) and milepost 75 (New Stanton Interchange). The project is necessary because this section of the Pennsylvania

Turnpike is 67 years old; does not meet current safety, design or engineering standards; and there are projected capacity and transportation deficiencies in the project area.

The PTC began by studying ten alternatives and by a process of elimination, and in consultation with the affected owners and/or operators, eight of the ten alternatives were eliminated. The No-Build option, Alignment 1, Alignment 2, Alignment 3c, Alignment 3c-rev, and Alignment 3d are dismissed because they did not meet the design criteria and the project needs were not met. Thus, they were not prudent. Alignment 3a and 3b had dramatically increased cost, substantial earth work and greater complexity and were dismissed as not reasonable. This left the reconstruction with symmetrical widening alternative for the majority of the project area with the realignment alternative for the project area between milepost 70 and 72.

The Reconstruction/Realignment alternative will only impact 5.89 acres of productive agricultural land. Of this amount, only 1.38 acres is in an agricultural security area. None of the other final alternatives would have had a lesser impact. The PTC's proposed alternative will not affect any first level priority lands (preserved farmland); will impact only 1.38 acres of second level priority (agriculture security area); will impact zero acres of third level priority lands (preferential tax assessments); will impact only 3.9 acres of fourth level priority land (agricultural zoning); and will impact zero acres of fifth level priority land (soil capability classes). The PTC believes it has minimized the affect of its project on the conversion of primary agricultural land as required by Governor Rendell's ALPP, 4 Pa. Code §7.301, et seq.

All of the affected owners and/or operators of protected farmland were directly notified by certified mail and the affected municipalities and government agencies were also notified. Several individuals participated in the public hearing held on April 24, 2007. Tom Logan, Scott

Logan, Bob Whisner, Jr., Bob Whisner, III, and Nancy Logan all expressed concern on issues ranging from deciduous hard woods to utility easements and guard rails. None of the speakers were enthusiastic about the project. However, they did not voice any opposition to the approval of the Reconstruction/Realignment Alternative.

After listening to the testimony and reviewing the exhibits provided by the PTC, it is the unanimous opinion of ALCAB that there is no reasonable and prudent alternative to the utilization of land designated as the Reconstruction/Realignment Alternative within the Agricultural Security Area and other productive agricultural lands for the project; that the PTC has considered the affects of the proposed condemnation on the Governor's Agricultural Lands Preservation Policy; and that the PTC has cooperated with the farm owners and/or operators to minimize impacts to their operations.

Therefore, based upon the foregoing, the Agricultural Land Condemnation Approval Board hereby approves the condemnation of productive agricultural lands for the Reconstruction/Realignment Alternative as requested by the Pennsylvania Turnpike Commission for the reconstruction, widening and elimination of curves along the Pennsylvania Turnpike between milepost 67 and milepost 75.

III. CONCLUSIONS OF LAW

1. The Agricultural Lands Condemnation Approval Board does not have jurisdiction over this matter. 3 P.S. 902 et seq. and 71 P.S. § 106.
2. In the alternative, the Agricultural Lands Condemnation Approval Board issues the following Conclusions of Law on the merits of this matter:
 - a. The Agricultural Lands Condemnation Approval Board has jurisdiction over this matter pursuant to 3 P.S. 902 et seq., 71 P.S. § 106 and *White v. PennDOT*, 738 A.2d 27 (Pa.Cmwlt. 1999).

- b. Lands within an Agricultural Security Area will be impacted by the construction of the Reconstruction/ Realignment Alternative; however, the PTC has attempted to minimize such impact.
- c. The PTC has considered and minimized the impact on productive agricultural land that this project will effect.
- d. There is no reasonable and prudent alternative to the condemnation of productive agricultural land, including Agricultural Security Area land, other than that which is required for the construction of the Reconstruction/Realignment Alternative.
- e. Appropriate notice was given to the affected property owners and farm operators, the PTC, local municipalities and affected Agricultural Security Area Committees and the general public regarding the ALCAB public hearing on April 24, 2007.

WHEREFORE we enter the following Order:

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
AGRICULTURAL LANDS CONDEMNATION
APPROVAL BOARD**


IN RE: Pennsylvania Turnpike :
Commission - Westmoreland : Docket No.
County, Total Reconstruction : AG-2007-4
And Widening Between :
Mileposts 67 and 75 :

ORDER

AND NOW, this 14th day of May, 2007, in accordance with unanimous votes taken by the Board at a public hearing held on April 24, 2007, the Agricultural Lands Condemnation Approval Board hereby determines and orders as follows:

- (1) The Board does not have jurisdiction in the present matter.
- (2) In the alternative and in the event that an order on the merits is required, then in the interest of judicial economy, the Board hereby approves the condemnation of productive agricultural lands, including Agricultural Security Area Lands, for the Reconstruction/ Realignment Alternative between mileposts 67 and 75, as requested by the PTC because there is no reasonable and prudent alternative.

**Agricultural Lands Condemnation
Approval Board**

By: 
Cheryl L. Cook, Esquire
Deputy Secretary, Department of Agriculture
Chairperson

Our Mission:

To operate and manage a safe, reliable, cost effective and valued toll road system.



Pennsylvania Turnpike Commission

America's First Superhighway

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February 1, 2007

Leonidas Pandeladis, Esquire
Chief Counsel
Commonwealth of Pennsylvania
Department of Agriculture
Agriculture Office Building and Laboratories
2301 North Cameron Street
Harrisburg, PA 17110-9408

Re: Pennsylvania Turnpike Commission
Total Reconstruction Projects
Agricultural Lands Condemnation Approval Board

Dear Chief Counsel Pandeladis,

The Pennsylvania Turnpike Commission has undertaken the initiative to reconstruct the entire length of the east-west mainline and portions of the Northeast Extension of the Pennsylvania Turnpike. The total reconstruction of the Turnpike entails excavation and removal of the existing roadway, widening and, where necessary for safety reasons, curve realignment. Currently, the Commission is in the final design phase for the total reconstruction of approximately fifty (50) miles of mainline spread across the entire state and has initiated the preliminary design phase for another thirty (30) miles. All of these projects likely impact active agricultural lands. At this point in time, the Commission is requesting a determination from the Commonwealth Department of Agriculture as to whether or not, for total reconstruction projects such as these, Farmland Assessment Reports (FAR) must be submitted to the Agricultural Land Condemnation Approval Board (ALCAB) for approval.

The Pennsylvania Turnpike Commission's enabling legislation clearly empowers the Commission to condemn land for any purpose deemed necessary and convenient for the construction and efficient operation of the Pennsylvania Turnpike. 36 P.S. §651.9 (a). Section 106 of the Administrative Code places a limitation on this power by requiring that ALCAB approval be obtained before condemning active



Leonidas Pandeladis, Esquire

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agricultural lands. 71 P.S. §106. However, while the Administrative Code gives ALCAB jurisdiction over condemnation for highway purposes, it also creates an exception for existing highways. Specifically, Section 106, subsection (d) states as follows:

The Board shall have jurisdiction over condemnation for the following purposes: (1) Highway purposes, **but not including activities relating to existing highways such as, but not limited to, widening roadways, the elimination of curbs or reconstruction.** 71 P.S. §106(d)(1). (Emphasis added.)

A strict interpretation of the statute clearly indicates that such reconstruction projects as those currently undertaken by the Turnpike Commission do not require ALCAB approval because they are related to the existing Turnpike, and specifically entail widening and reconstruction, two examples noted as exceptions to ALCAB jurisdiction. Unfortunately, in the case of White v. Pennsylvania Department of Transportation, 738 A.2d 27 (Pa. Cmwlth. Ct. 1999), the Commonwealth Court of Pennsylvania stated that the exception created in Section 106(d)(1) "...clearly contemplates only those activities that take place within the existing roadbed." White, 738 A.2d 27, 31. This dicta seemingly contradicts the plain language of the statute. By definition an existing highway cannot be widened within the "existing roadbed". Therefore, if White is to be applied on its face, one of the very examples listed by the General Assembly as an exception to ALCAB jurisdiction cannot possibly be deemed one.

It is because of this apparent contradiction that the Turnpike Commission is requesting a determination from the Department of Agriculture. All of the total reconstruction projects, present and future, involve the excavation and removal of the existing roadway, symmetrical widening to accommodate six lanes of travel, and where necessary curve realignment. All of these projects are necessary to improve traffic conditions and increase safety for the traveling public and all are designed and built to meet current Federal Highway Administration design and safety standards.

The nature of the total reconstruction projects is such that impact to adjoining properties, while minimal, is also unavoidable. The existing roadway dictates the location and geometry of all widening and curve realignments. Federal Highway Administration design and safety standards limit the scope of these projects even more. As a result, there is little or no means to evaluate multiple alternatives for the

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Leonidas Pandeladis, Esquire
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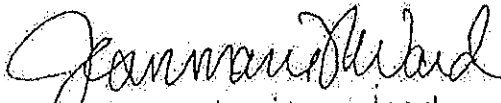
location of these projects. There is also no means to avoid impacting active farmland in operation along existing Turnpike limited access right-of-way. It is circumstances such as these that make the Turnpike's total reconstruction projects fit the exception to ALCAB jurisdiction created by the General Assembly.

At this point in time the Turnpike Commission is prepared to proceed with the submission of multiple FARs for the upcoming total reconstruction projects. In an attempt to aid in your decision making I have enclosed a copy of the FAR that has been prepared for the Turnpike Commission's mileposts 67 to 75 total reconstruction project. This FAR is representative of the reports that will be submitted, if necessary, for all of the total reconstruction projects. If required, we anticipate at least two submissions in the coming months. These submissions will, obviously, require a significant commitment of time and resources from not only the Turnpike Commission but also the Department of Agriculture and the various members of the Board. If the Department of Agriculture determines that these projects fit within the statutory exception all can be saved this time and expense.

The Turnpike Commission appreciates your consideration of its request. Due to the time sensitive nature of this matter we would request a response from your office, if possible, by the end of February. If you agree that the statutory exception created by the General Assembly is still viable please let us know and we will cease work on the FARs currently underway. If you determine that the statutory exception no longer exists we will proceed as necessary with a formal request for an ALCAB hearing for the first of the total reconstruction projects.

Thank you again for your time. Please do not hesitate to contact me at the above telephone number with any questions you may have.

Very truly yours,


Jeanmarie R. Ward
Assistant Counsel

JRW:rn

Enclosure

cc: Alphonse P. Lepore, Jr
David P. Willis
William Cressler, Esquire

COMMONWEALTH OF PENNSYLVANIA



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF AGRICULTURE
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OFFICE OF CHIEF COUNSEL

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February 21, 2007

Pennsylvania Turnpike Commission
Office of Chief Counsel
ATTN: Jeanmarie R. Ward, Assistant Counsel
P.O. Box 67676
Harrisburg, PA 17106-7676

**Re: Your Letter of February 1, 2007
Pennsylvania Turnpike Commission
Total Reconstruction Projects
Agricultural Lands Condemnation Approval Board**

Dear Ms. Ward:

Your letter of February 1 seeks a determination from the Pennsylvania Department of Agriculture (PDA) that the Pennsylvania Turnpike Commission's (PTC's) forthcoming comprehensive turnpike reconstruction projects relate to "existing highways" and that the prospective condemnations of land necessary for these projects are exempt from review by the Agricultural Lands Condemnation Approval Board (ALCAB). Chief Counsel Pandeladis requested that I offer PDA's response on his behalf, as I am involved in farmland preservation issues on a frequent basis.

Regrettably, PDA cannot provide the determination you seek.

But for the *White vs. Pennsylvania Department of Transportation* opinion you reference in your letter, it would be clear that the proposed widening of the turnpike would fit within the "existing highways" exceptions to ALCAB review set forth in the Agricultural Area Security Law (at 3 P.S. § 913(d)(2)(i)) and the Administrative Code of 1929 (at 71 P.S. § 106(d)(1)). The *White Court's* pronouncement that the "existing highways" exception "...clearly contemplates only those activities that take place within the existing roadbed" has injected uncertainty into what was once a rather straightforward legal call.


Jeanmarie R. Ward, Assistant Counsel
February 21, 2007
Page Two

The decision to seek – or to refrain from seeking – ALCAB review rests with the prospective condemnor. Although I can offer that I agree with the reasoning set forth in your letter, please do not construe this as a formal “determination” by PDA.

I believe your counterparts at PennDOT have considered the impact of the *White* decision on ALCAB, and have elected to treat the referenced “existing roadbeds” language as non-binding *dicta*.

PDA currently has draft legislative language that would amend the Agricultural Area Security Law to effectively restore the “existing highways” exception to what we understood it to be before the *White* decision. This will likely move forward this year, as part of a more comprehensive amendment of that statute. PDA will also seek to amend the Administrative Code of 1929 to accomplish this same result, although I cannot offer a timetable for this legislative project.

I realize this doesn’t ultimately provide PTC the insulating determination it seeks. If you would like to discuss this further, please do not hesitate to call.

Sincerely,

Dwight Jared Smith
Assistant Counsel

cc: Bill Wehry, Deputy Secretary, by e-mail only
Leo Pandeladis, Chief Counsel, by e-mail only
Sandra Robison, Director, Bureau of Farmland Preservation, by e-mail only
Doug Wolfgang, Bureau of Farmland Preservation, by e-mail only

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Appendix 10
USDA NRCS Web Soil Survey Data Collection
Overview

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USDA NRCS Web Soil Survey Data Collection Overview

1. Go to: <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm> and click Start WSS

The screenshot shows the USDA NRCS Web Soil Survey homepage. At the top, there is a banner with the USDA logo and the text "United States Department of Agriculture Natural Resources Conservation Service". Below the banner is a navigation menu with "Home", "About", "Help", and "Contact Us". A breadcrumb trail indicates "You are here: Web Soil Survey Home".

On the left side, there is a "Search" section with a text input field "Enter Keywords" and a "Go" button. Below it is a "Browse by Subject" menu with the following items:

- Soils Home
- National Cooperative Soil Survey (NCSS)
- Archived Soil Surveys
- Status Maps
- Official Soil Series Descriptions (OSD)
- Soil Series Extent Mapping Tool
- Geospatial Data Gateway
- eFOTG
- National Soil Characterization Data

In the center, there is a large green button labeled "START WSS" with a red arrow pointing to it. Below the button is a "Welcome to Web Soil Survey (WSS)" section with a photo of people in a field and text describing the service. To the right of the "START WSS" button is a "I Want To..." section with the following links:

- Start Web Soil Survey (WSS)
- Know the requirements for running Web Soil Survey — will Web Soil Survey work in my web browser?
- Know the Web Soil Survey hours of operation
- Find what areas of the U.S. have soil data
- Find information by topic
- Know how to hyperlink from other documents to Web Soil Survey
- Know the SSURGO data structure

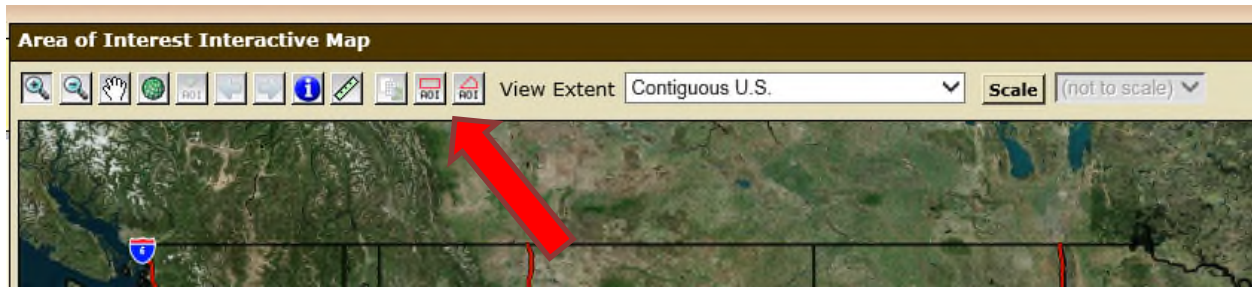
At the bottom right, there is an "Announcements/Events" section.

button

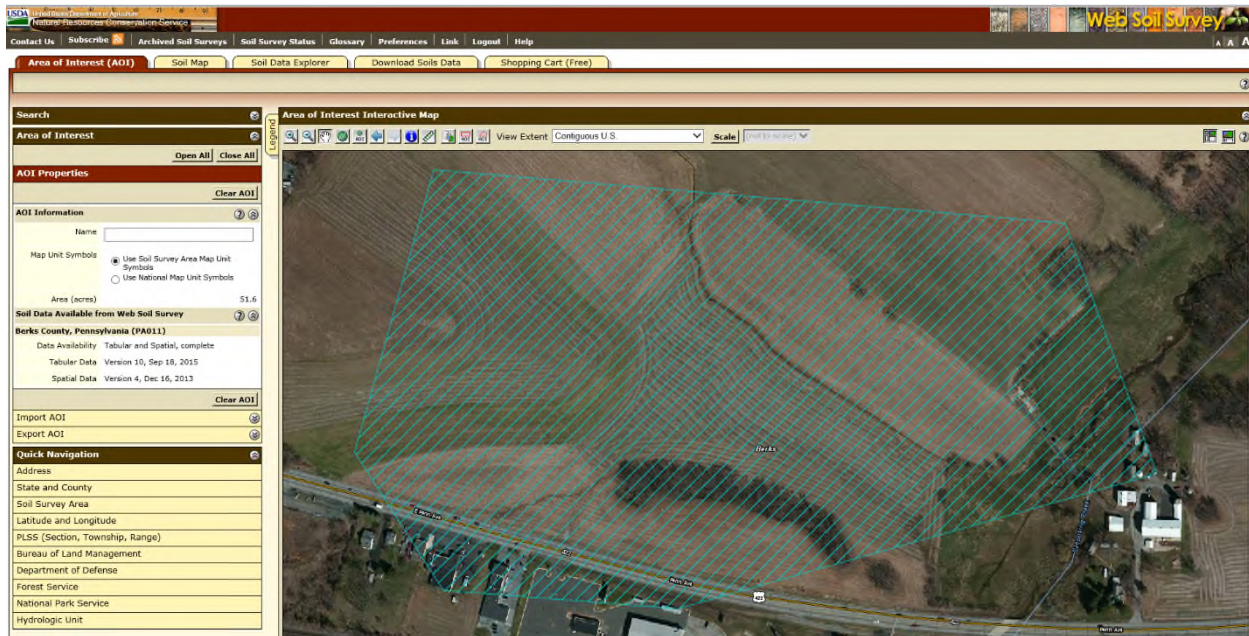
2. Zoom into Area of Interest

The screenshot shows the "Area of Interest Interactive Map" interface. At the top, there is a toolbar with various icons for navigation and map manipulation. Below the toolbar is a map showing a satellite view of a region. A red arrow points to the zoom-in icon in the toolbar. The map has a red outline indicating the area of interest.

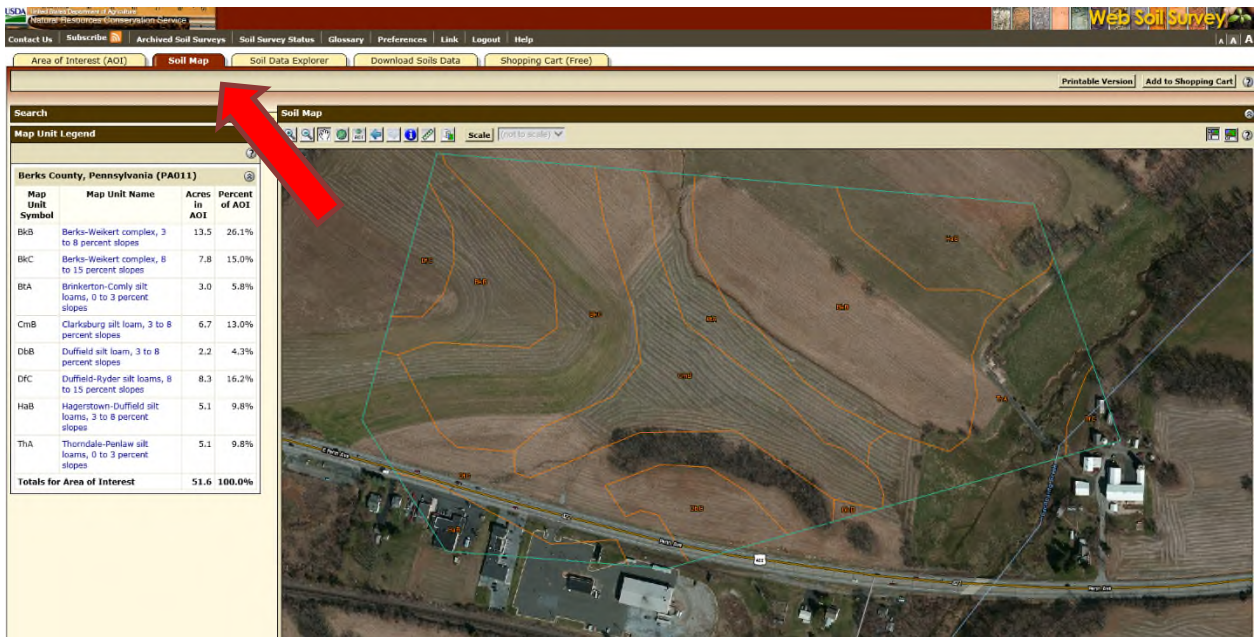
3. Draw box or shape of Area of Interest



a. Other tabs across top become activated



4. Click on soil map to view Soil Map produced



5. Click Printable Version button



6. In pop-up display, make sure "Show UTM Coordinate Ticks" box is checked and click view

The 'Printable Version Options' dialog box is shown. The 'Show UTM Coordinate Ticks' checkbox is checked. The 'View' button is highlighted.

Printable Version Options

Report Options

Title: Soil Map; Berks County, Pennsylvania

Subtitle (optional):

- Area of Interest Name: (none defined)
- Custom Subtitle:
- None

Map Options

Map Scale: Fit to page

Printed Sheet Size: A landscape (11" x 8.5") — 1 sheet

Show UTM Coordinate Ticks:

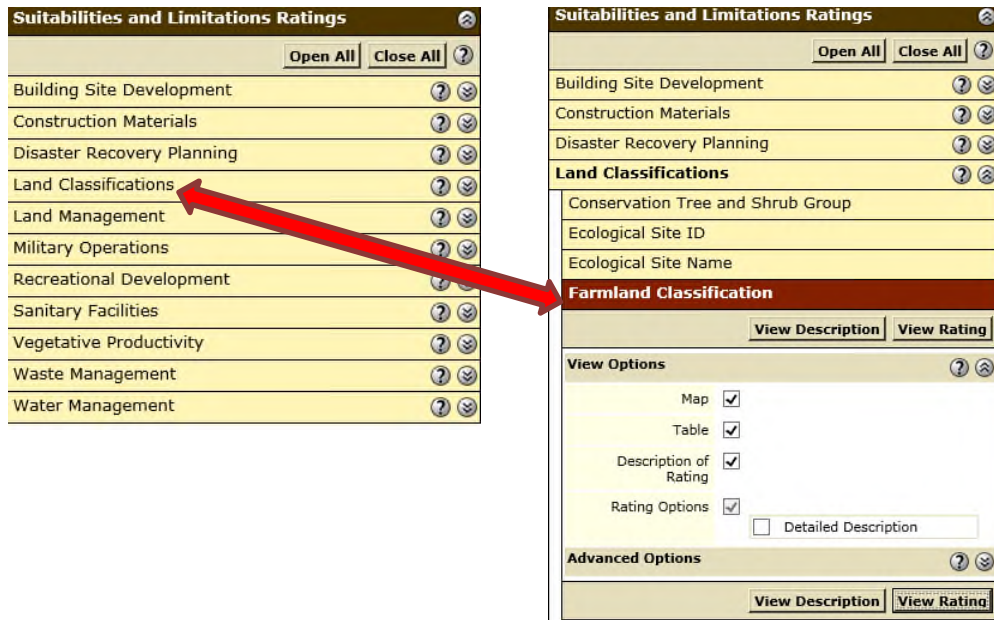
Buttons: Cancel, View

7. Save the generated report

8. Click on Soil Data Explorer



- a. Under Land Classifications choose Farmland Classification
 - i. Make sure that Map, Table, and Description of Rating are selected and select View Rating button



1. Produces map and table of farmland ratings



Warning: Soil Ratings Map may not be valid at this scale.
 You have zoomed in beyond the scale at which the soil map for this area is intended to be used. Mapping of soils is done at a particular scale. The soil surveys that comprise your AOI were mapped at 1:24,000. The design of map units and the level of detail shown in the resulting soil map are dependent on that map scale.
 Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

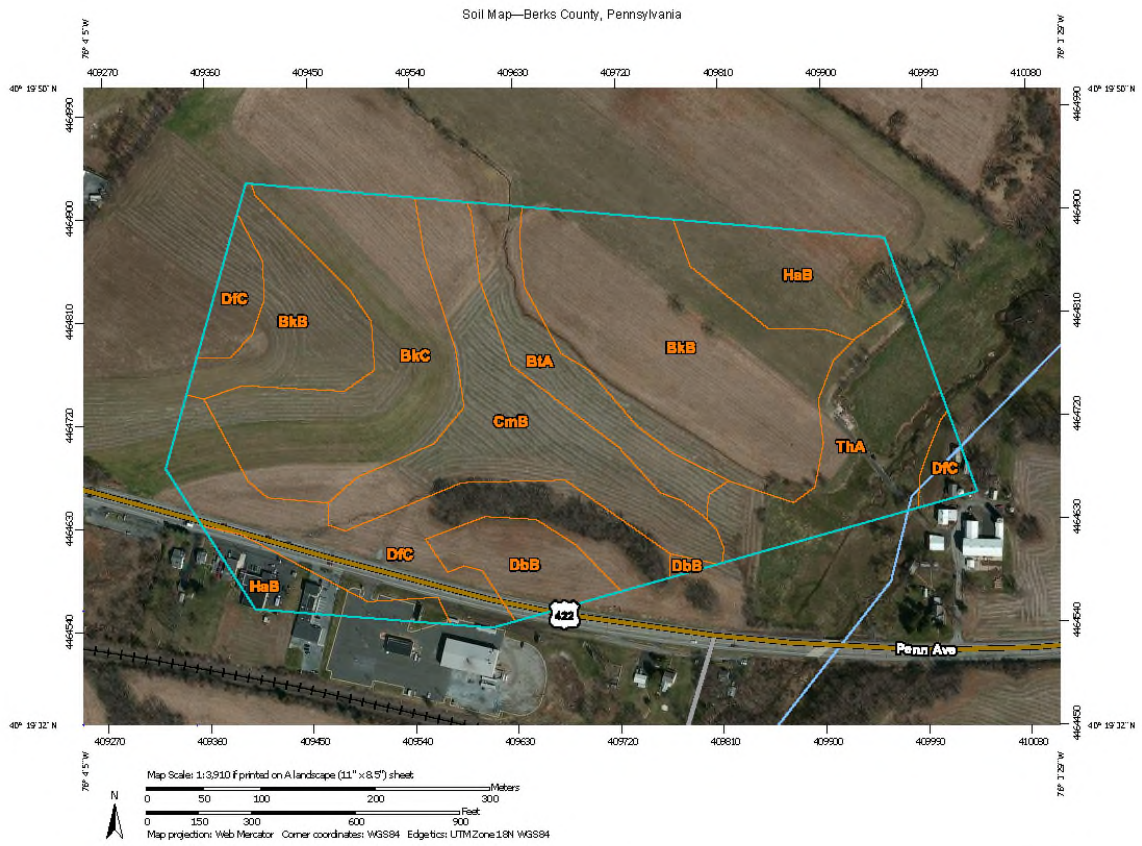
Tables — Farmland Classification — Summary By Map Unit

Summary by Map Unit — Berks County, Pennsylvania (PA011)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BkB	Berks-Weikert complex, 3 to 8 percent slopes	Farmland of statewide importance	13.5	26.1%
BkC	Berks-Weikert complex, 8 to 15 percent slopes	Farmland of statewide importance	7.8	15.0%
BtA	Brinkerton-Comly silt loams, 0 to 3 percent slopes	Not prime farmland	3.0	5.8%
CmB	Clarksburg silt loam, 3 to 8 percent slopes	All areas are prime farmland	6.7	13.0%
DBB	Duffield silt loam, 3 to 8 percent slopes	All areas are prime farmland	2.2	4.3%
DFC	Duffield-Ryder silt loams, 8 to 15 percent slopes	Farmland of statewide importance	8.3	16.2%
HaB	Hagerstown-Duffield silt loams, 3 to 8 percent slopes	All areas are prime farmland	5.1	9.8%

ii. Choose Printable Version at top right of page and click view (refer to Steps 5 and 6 above).

*****Example*****



Farmland Classification

Farmland Classification— Summary by Map Unit — Berks County, Pennsylvania (PA011)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BkB	Berks-Weikert complex, 3 to 8 percent slopes	Farmland of statewide importance	13.5	26.1%
BkC	Berks-Weikert complex, 8 to 15 percent slopes	Farmland of statewide importance	7.8	15.0%
BtA	Brinkerton-Comly silt loams, 0 to 3 percent slopes	Not prime farmland	3.0	5.8%
CmB	Clarksburg silt loam, 3 to 8 percent slopes	All areas are prime farmland	6.7	13.0%
DbB	Duffield silt loam, 3 to 8 percent slopes	All areas are prime farmland	2.2	4.3%
DfC	Duffield-Ryder silt loams, 8 to 15 percent slopes	Farmland of statewide importance	8.3	16.2%
HaB	Hagerstown-Duffield silt loams, 3 to 8 percent slopes	All areas are prime farmland	5.1	9.8%
ThA	Thorndale-Penlaw silt loams, 0 to 3 percent slopes	Not prime farmland	5.1	9.8%
Totals for Area of Interest			51.6	100.0%

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Tie-break Rule: Lower

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