



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Bureau of Watershed Restoration
and Nonpoint Source Management



New Manager Training

Management Summit
New CD Manager's Pre-Con
September 17, 2024

Josh Shapiro, Governor

Jessica Shirley, Acting Secretary

Training Objectives

- Key Manager Understandings:
 - Delegation/Contract/Agreement details
 - Opportunities and related obligations
- Brief Overview of DEP Programs
- Meet DEP Staff



Training Resources

Act 217
Conservation
District Law

Comprehensive
Policy
Document

CDFAP
Statement of
Policy



Pennsylvania
Department of Environmental Protection

Delegated Programs

Conservation District Law requires the Commonwealth to defend and indemnify district directors, associate directors and employees for duties performed as part of delegated programs.

Examples: ACAP, CEG, Ch. 102, Ch. 105, MM/NN (Act 38) Program



Delegated Programs

- Must follow delegation details.
- Staff are acting on behalf of the Department.
- Work must be completed by CD staff; cannot hire another person or entity to do delegated work.
 - >Exception: ACAP



Non-Delegated Programs

Contracts & Agreements

For all non-delegated programs or activities, the District should review all programs to ensure they understand the program agreements, SOPs & guidance and evaluate the need for additional insurance in the form of *Errors and Omissions and/or General Liability*.

Examples: Watershed Specialist, DGLVR Program, Ches. Bay Program



Non-Delegated Programs

- Must carry out responsibilities listed in Scope of Work (SOW).
- Must follow all program guidelines.
- Can hire someone else to complete responsibilities; i.e., contract with an engineering firm.



Program Details

- Review Required Output Measures (ROMs), Scope of Work (SOW) and/or Standard Operating Procedures (SOPs).
- Memorandum of Understanding (MOU).
- If you don't administer a delegated program but receive a call from the public, refer to appropriate agency.



Opportunities/Tasks: Federal

- National Fish and Wildlife Federation (NFWF)
- NRCS
- Section 319 grants
- Other



Opportunities/Tasks: State

PDA

- ACAP
- ACT (CDFAP)
- CEG
- DGLVR
- MM/NM
- REAP

DEP

- CAP
- CDFAP
- Ch. 102
- Ch. 105
- Ches. Bay
- Mosquito-Borne Disease Control
- Watershed Specialist

DCNR

- C2P2

Opportunities/Tasks: State

- Some programs on-going, no annual renewal.
 - Examples: Ch. 102, Ch 105, DGLVR
- Some programs updated annually.
 - Usually, a 3- or 5-year signed contact.
 - Scope of Work (SOW) and Budget renewed annually.
 - Examples: Ches. Bay, MM/NM Program, Watershed Specialist



Opportunities/Tasks: State

- Quarterly reporting is mandatory, must use specified reporting system.

Examples: Greenport, DGLVR GIS, PracticeKeeper

- Quarterly reimbursements, must be accompanied by a corresponding monthly/quarterly report.
- Some programs have an evaluation to ensure program requirements are being met.

Examples: Ch. 102, DGLVR, MM/NM (Act 38) Program

>If eval is not satisfactory, the delegation or monies can be halted.



Opportunities/Tasks: State

- Tremendous variation among programs.
 - Each program has a different contact person, different due dates, different reporting processes.
- Review delegation/contract details to determine:
 - ROMs, SOWs, SOPs
 - Amount of funding
 - Renewal due dates
 - Reporting requirements



➤ Opportunities/Tasks: State Grants

- PA Dept. of Agriculture (PDA)
 - Spotted Lanternfly
- PA Dept. of Environmental Protection (DEP)
 - Growing Greener
 - Environmental Education
- Dept of Conservation & Natural Resources (DCNR)



Opportunities/Tasks: Local

- Some CDs receive monetary support from their County.
 - County stipend
 - Support a CD staff person
- Some counties/regions have various grant opportunities from local sources.
 - Non-profit, RC&D, Foundations
- Understand reporting and tracking requirements.



Questions



What's on your
mind??



DEP Program Overview

Details and Requirements



Organizational Flow Chart as applied to Districts

Governor (appoints Secretaries of all State Agencies)

PA Department of Environmental Protection ← **PA Department of Agriculture**

Delegation Agreements and Partial Funding

State Conservation Commission

County Commissioners

County Nominating Organizations

Cooperating Agencies → **County Conservation District Board of Directors**

Associate Directors

**PA Association of CDs &
National Association of CDs**

District Manager

Staff (the heavy-lifters!)

DEP Resources

Conservation District Support Team



Pennsylvania
Department of Environmental Protection

▶ Conservation District Support Team

CD Support:

- Proficient in Conservation District Law (Act 217).
- Valuable contacts with DEP program staff.
- Administer Conservation District Fund Allocation Program (CDFAP).
- Assist with Greenport use.
- Send monthly email reminder of reports/forms due.
- Collect annual budget and audit.



Conservation District Support Team

CD Field Reps:

- Act as a liaison between CD and DEP.
- Attend monthly board meetings.
- Provide new staff & board director trainings.
- Explain CD program details to staff and board directors.
- Assist with agency evaluations.
- First point of contact with inquiries.



CD Support Team Contacts

Central Office:

- Karen Books – kbooks@pa.gov
- Jaci Kerstetter – jackerstet@pa.gov



Regional Field Reps:

- NW: Susannah Harris – susharris@pa.gov
- NC: Rachael Fish – rafish@pa.gov
- NE: Caitlin Skibiel – cskibiel@pa.gov
- NE: Janet Creegan – jcreegan@pa.gov
- SE: Shannon Davis – shannondav@pa.gov
- SC: Charles (Chas) Heberlig – chheberlig@pa.gov
- SC: Chris Santore – chrsantore@pa.gov
- SW: Ryan Furrer – rfurrer@pa.gov



DEP Programs

Ch. 102 Program

Ch. 105 Program



Pennsylvania
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Ch. 102 Program

Program Goals:

- Minimize potential for accelerated erosion and sedimentation.
- Manage post-construction stormwater.
- Protect, maintain, reclaim and restore water quality and existing and designated uses of streams.



Ch. 102 Program

Relationship:

- DEP and CDs work together on the same team.
- DEP delegates authority to CDs through the Delegation Agreement.
- EPA delegates authority to DEP through an agreement for the NPDES Program.



Ch. 102 Program



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Ch. 102 – Delegation Agreement



Level I: Education/Information and Outreach
Required Output Measures (ROMs)



Level II: Administration and Compliance ROMs



Level III: Program Enforcement ROM's



Post-Construction Stormwater Management



Ch. 102 – Manager Tasks

- Active role in Chapter 102.
- Know the delegation agreement and required output measures.
 - Housed on Clean Water Academy (CWA).
- Manager signs page 1 of permits & cover letters.
Not to be done by staff. This is important for DEP's delegation with EPA.
- Stay up to date on program guidance and initiatives.



Ch. 102 Program

DEP Evaluations:

- DEP conducts periodic evaluations of district performance under the delegation agreements.
- Ensure duties, responsibilities and Required Output Measures (ROMs) are being fulfilled.



Ch. 102 Program

Financial Support:

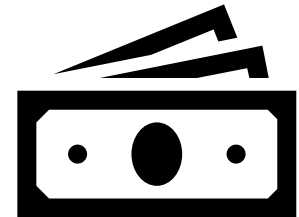
- Conservation District Fund Allocation Program (CDFAP)
 - \$20,000 for 1st E&S Tech.
 - **Can add funding** to 1st E&S Tech position and support *additional* E&S Techs using Unconventional Gas Well (UGW) Funds.
 - Must submit quarterly reimbursement & activity reports.



Ch. 102 Program

Financial Support:

- Collect Administrative Filing Fees – Placed in Clean Water Fund
 - General Permits - \$500
 - Individual Permits - \$1,500
- CDs *can* charge plan review fees.



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Ch. 105 Program

Program Goals: Provide statewide oversight for:

- The program policy and guidance of water obstructions and encroachments and related earth moving activities.
- Protection and restoration of Commonwealth's waterways and wetlands by regulation and supervision of water obstructions and encroachments.



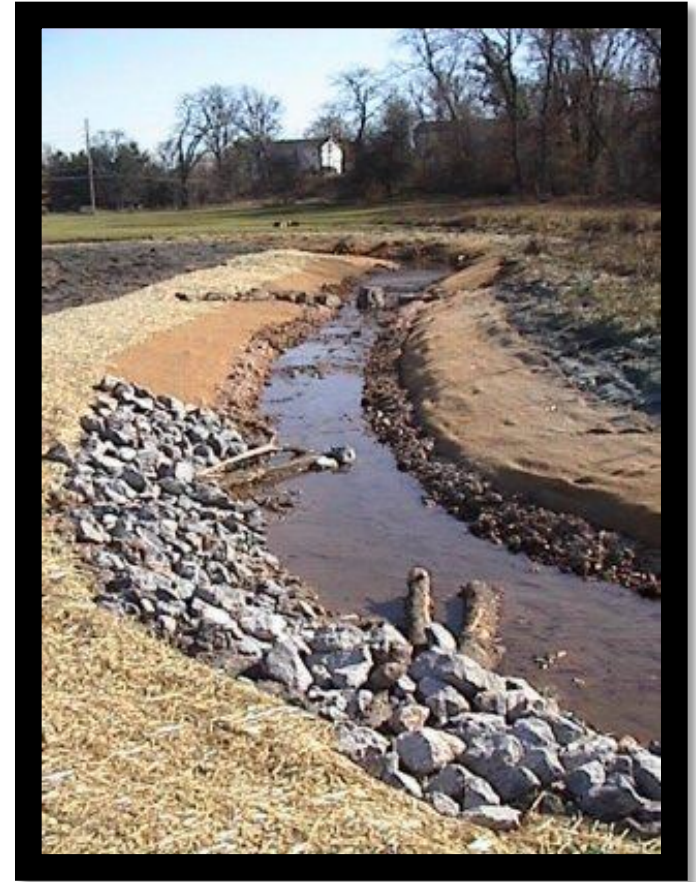
Ch. 105 Program

Relationship:

- DEP and CCD's work together on the same team.
- DEP delegates authority to CCDs through the Delegation Agreement.



Ch. 105 Program



Pennsylvania
Department of Environmental Protection

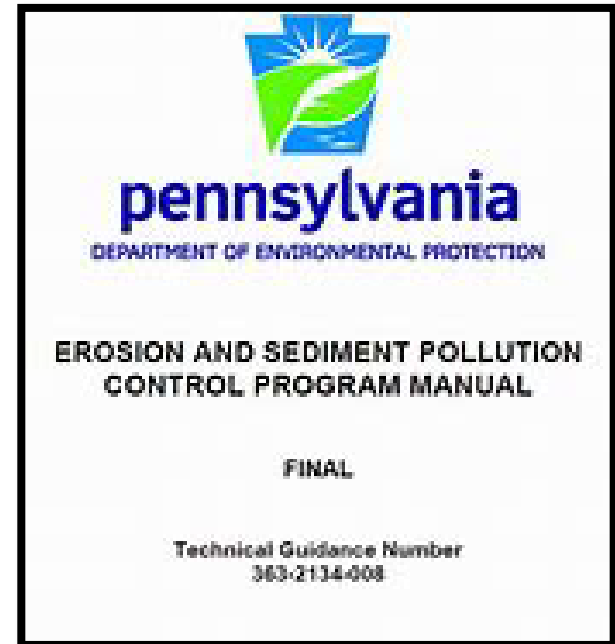
➤ General Permit Completeness Review

- Receive, review and acknowledge registration of authorized GP's issued by the Department under 25 Pa. Code Chapter 105.
 - GP-1 Fish Enhancement Structures
 - GP-2 Small Docks and Boat Launching Ramps
 - GP-3 Bank Rehabilitation, Bank Protection and Gravel Bar Removal
 - GP-4 Intake and Outfall Structures



➤ General Permit Completeness Review

- An acceptable Erosion and Sediment Control Plan (E&S Plan) must be reviewed and approved for General Permit (GP) acknowledgement.



CD Project Limitations

- Districts can not acknowledge a permit on a project they are sponsoring/implementing.
- Conflicts may occur if permits are authorized by the sponsoring conservation district.
- Contact your regional office to discuss permitting options.
- CD staff should not create designs/plans/permits; they can provide technical assistance but should not act as a consultant.



Ch. 105 Program

DEP Evaluations:

- DEP conducts periodic evaluations of district performance under the delegation agreements.
- Ensure duties, responsibilities and Required Output Measures (ROMs) are being fulfilled.
 - Housed on Clean Water Academy (CWA).



Ch. 105 Program

Financial Support:

- General Permit Fee - Placed in Clean Water Fund
 - Check amount varies for each GP
- Erosion & Sediment (E&S) plan review fee
- PNDI search fee (optional)
- Must submit quarterly activity reports



Ch. 102 & 105 Program Contacts

Ch. 102: Krystal Bloom

- krbloom@pa.gov / 717.783.3496

Ch. 105: Sid Freyermuth

- sfreyermuth@pa.gov / 717.772.5977



DEP Programs

Watershed Support Section



Watershed Specialists

Purpose:

- Provide technical, informational and organizational assistance to improve watershed organization development and the quality and quantity of the Commonwealth's surface and groundwater resources.



Watershed Specialists

Requirements:

- Watershed protection and restoration activities.
- Trainings/education and outreach to local stakeholders and/or schools.
- Grants to support watershed improvement projects.
- Enter Growing Greener/Section 319 grant details into PracticeKeeper.



Watershed Specialists

Financial Support:

- Environmental Stewardship Fund.
- \$50,250 annual allotment.
- 20% match is required: $\$50,250.00 \times .20 / .80 = \$12,562.50$ Match.
- Quarterly reimbursements w/ activity reports.



Growing Greener (GG) Grants

Purpose:

- Improve water quality & protect healthy waterbodies.
- Reduce non-point source pollution.

Financial Support:

- Environmental Stewardship Fund.
- Competitive grant process through eGrants system.



Section 319 Grants

Purpose:

- Address problems from non-point source pollution.
- Must have an approved Watershed Implementation Plan (WIP).

Financial Support:

- Federal Clean Water Act Section 319.
- EPA funds administered through DEP.



▶ Watershed Support Section Contact

Shane Kleiner

- shkleiner@pa.gov / 570.826.2509



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DEP Programs

Conservation District Fund Allocation Program (CDFAP)



Partners & Responsibilities:

- SCC - Program policies and parameters, set annual allocations and distribute funds.
- DEP - Administrative management.
- PDA - Administrative management.
- CD - Use funds properly; submit quarterly reports & reimbursement requests.



CDFAP Statement of Policy

- SCC provides for the fair and equitable distribution of funds to districts.
- DEP and PDA staff work together to determine funding received, the proposed distribution to CDs, and present to SCC for their approval at their July meeting.



CDFAP Statement of Policy

- 3 Specific positions: Manager, 1st E&S Tech, Ag Conservation Tech (ACT)
- Extra Staff positions
- Administrative Assistance
- Agland Preservation Admin expenses
- Special Projects/Reserve Accounts
- State-wide Special Projects



CDFAP Contacts

DEP: Jaci Kerstetter, Karen Books

- jackerstet@pa.gov / 717.772.5165
- kbooks@pa.gov / 717.772.5649

PDA: Amy Ewing, Justin Challenger

- amewing@pa.gov / 717.307.3244
- jchallenge@pa.gov / 717.772.4187



DEP Programs

Chesapeake Bay Program

Countywide Action Plan (CAP)



▶ Chesapeake Bay Technician Program

Purpose:

- Provide technical and compliance assistance to farmers and other landowners to achieve measurable reductions of nutrients and sediment.

Uses:

- Employ technical personnel.
- Hire technical services.
- Acquire technical equipment and supplies.



Chesapeake Bay Tech Program

Requirements:

- Perform farm inspections.
- Ag plan development: Manure Management plans, Ag E&S plans, etc.
- Ag Best Management Practice (BMP) design and/or implementation.
- Enter all data into PracticeKeeper.



Chesapeake Bay Engineer Program

Purpose:

- Plan, design, install, and maintain agricultural BMPs.
 - Including waste management systems and other structural BMPs.
- Provide construction quality assurance checks and documentation of implemented BMPs.

Uses:

- Employ technical personnel.
- Acquire technical equipment and supplies.



Ch. Bay Program Contacts

Kate Bresaw

- kresaw@pa.gov / 717.772.5650

Carl Deluca

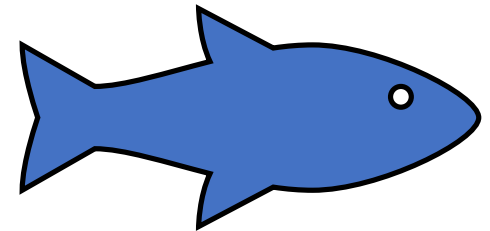
- cdeluca@pa.gov / 717.772.5832



Countywide Action Plan (CAP)

Purpose/Goals:

- Local/County partnerships prioritize water quality improvement projects to accelerate nutrient and sediment reductions
- Program and funding support to counties whose waterways drain into the Chesapeake Bay



CAP Financial Support



Chesapeake Bay CAP Implementation Block Grant



Community Clean Water Action Plan Coordinator



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CAP Contact

Kate Beats

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DEP Grant Opportunities

Growing Greener Grants

Environmental Education Grants



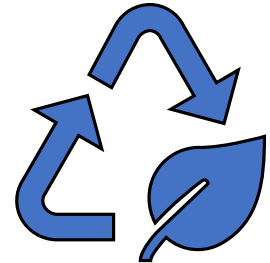
DEP Grant Opportunities

DEP Growing Greener (GG) Grants

- Described earlier under the Watershed Section.

Environmental Education Grants

- Support innovative formal & non-formal education projects.
 - Public Workshops / Tours
 - Teacher Education
 - Student Education
 - Outdoor Education / Field Trips i.e., Kayak trip



DEP Grant Opportunities

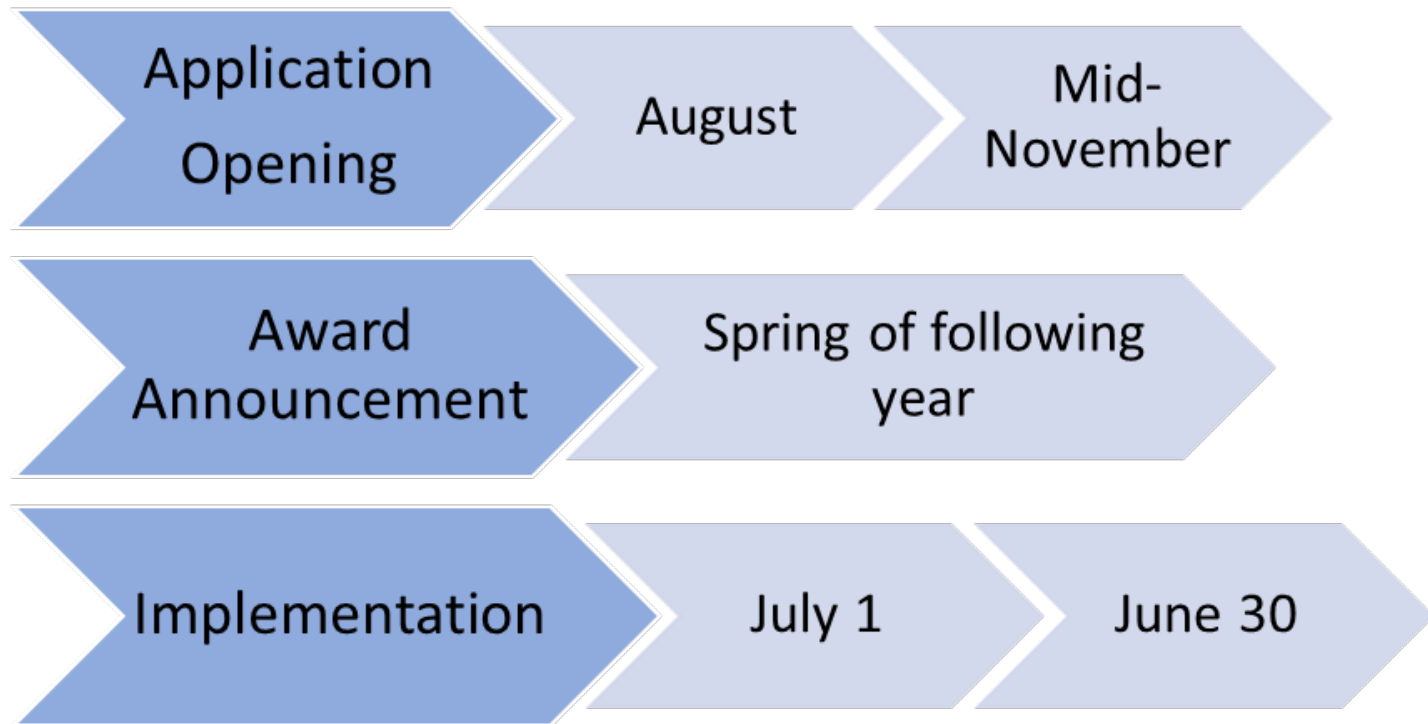
Environmental Education Grants:

- Mini-Grant – up to \$5,000 for local level activities.
- General Grants – \$5,001 - \$30,000 for larger audience; i.e. School-District wide, multiple communities or counties, statewide activity.
- Statewide Grant - \$30,001 - \$65,000 for non-formal education engaging youth and teachers at 3 levels: local, state and national.



DEP Grant Opportunities

Environmental Education Grants



Envir Education Grant Contact

Kathleen Banski

- kbanski@pa.gov / 717.772.1857



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DEP Other Opportunities

West Nile Virus Program

Biosolids Delegation

Mushroom Delegation



West Nile Virus Program

Program Goals



- Conduct investigations of mosquitoes, ticks, birds and other animal populations to determine disease presence and develop intervention strategies to protect public health.



Program Funding

- Reimbursement grant covering 100% of costs.
- Grant participation is limited by program funding and observed risk from targeted vector species in each county.



West Nile Program Contact

Matt Helwig

- mhelwig@pa.gov / 717.346.8243



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Biosolids Program Contacts

Jay Patel

- jaypatel@pa.gov / 717.783.2283

Kevin McLeary

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Mushroom Program Contacts

Larry Holley

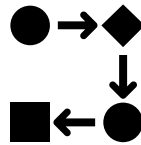
- lholley@pa.gov / 717.787.8684



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Questions

Questions/Concerns?





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DEP Contacts

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CONSERVATION DISTRICT LAW
Act of May 15, 1945, P.L. 547, No. 217

Commonwealth of Pennsylvania
Department of Environmental Protection
www.depweb.state.pa.us

CONSERVATION DISTRICT LAW
Act of May 15, 1945, P.L. 547, No. 217 **C1.03**
(Act reenacted and amended Dec. 19, 1984, P.L.1125, No.221)
(This publication includes the July 9, 2008, P.L. 986, No. 75 amendments)

AN ACT

Relating to the conservation of soil, water and related natural resources and land use practices contributing to soil wastage and soil erosion; providing for the organization of the various counties into conservation districts; the appointment of their officers and employes; and prescribing their powers and duties; creating the State Conservation Commission in the Department of Environmental Resources and fixing its powers and duties relative to the administration of this act; providing financial and legal assistance to such conservation districts and the commission; and authorizing county governing bodies to make appropriations thereto; providing for disposition and operation of existing districts; and repealing existing laws. (Title amended Dec. 19, 1984, P.L.1125, No.221)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in Act 217 of 1945.

Corrected copy as provided by the Legislative Reference Bureau

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Section 16.	Contracts to Remain in Force.
Section 17.	Effective Date.

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

Section 1. Short title.

This act shall be known and cited as the "Conservation District Law".

Section 2. Declaration of Policy.

It is hereby declared to be the policy of the Commonwealth:

(1) To provide for the conservation of the soil, water and related resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources; assist in the control of floods; assist in developing and implementing plans for storm water management; prevent impairment of dams and reservoirs; assist in maintaining the navigability of rivers and harbors; protect air quality; preserve wildlife; preserve the tax base; protect public lands; and protect and promote the health, safety and general welfare of the people of the Commonwealth.

(2) To designate conservation districts as a primary local government unit responsible for the conservation of natural resources in this Commonwealth and to be responsible for implementing programs, projects and activities to quantify, prevent and control nonpoint sources of pollution.

(3) To authorize and encourage conservation districts to work in close cooperation with landowners and occupiers, agencies of Federal and State Government, other local and county government units and other entities identified and approved by the commission for the purposes of effectuating programs and policies under this act. (2 amended July 9, 2008, P.L.986, No. 75)

Section 3. Definitions.

Wherever used or referred to in this act unless a different meaning clearly appears from the context:

(a) "Commonwealth" means the Commonwealth of Pennsylvania.

(b) "Agency of this Commonwealth" includes the government of this Commonwealth and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this Commonwealth.

(c) "District" or "conservation district" means any county in the Commonwealth whose county governing body has, by resolution, declared said county to be a conservation district.

(d) "County governing body" means the board of county commissioners or that body that has responsibility or authority relating to the conservation district.

(e) "Directors" or "Board of directors" means the governing body of a conservation district appointed under the provision of this act.

(f) "Commission" means the State Conservation Commission created by this act.

(g) "United States" or "Agency of the United States" includes the United States Department of Agriculture and any other agency or instrumentality, corporate or otherwise, of the government of the United States of America.

(h) "Government" or "governmental" includes the government of this Commonwealth and the government of the United States.

(i) "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to, or shall be in possession of, any lands lying within a conservation district, organized under the provisions of this act, whether as owner, lessee, renter, tenant or otherwise.

(j) "Cooperating organization" is any organization approved by the commission to assist in carrying out the provisions of this act.

(k) "Nominating organization" is any organization approved under section 4 for the purpose of nominating district directors.

(l) "County" includes cities of the first class.

(m) "Department" means the Department of Environmental Protection. ((m) amended July 9, 2008, P.L.986, No.75)

Section 4. State Conservation Commission.

(1) There is hereby created the State Conservation Commission, which shall be a departmental administrative commission under the concurrent authority of the department and the Department of Agriculture, with all the powers and duties generally vested in, and imposed upon, such commissions by the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(a) The commission shall be administratively housed within the Department of Agriculture and shall be staffed and supported by both the department and the Department of Agriculture.

(b) In order for the commission to fulfill its duties and responsibilities and exercise its authority under this and other acts, an agreement shall be executed between the Department of Agriculture, the department and the commission which specifically defines and delineates the role and responsibility of each agency in assisting the commission in fulfilling its duties.

(c) In order for the commission to fulfill its duties and responsibilities and exercise its authority under this and other acts, the commission, the department and the Department of Agriculture:

(i) May establish joint offices in order to facilitate cooperation and coordination of work and to eliminate overlapping functions.

(ii) Shall cooperate with each other in the use of employees, land, buildings, quarters, facilities and equipment.

(iii) Shall establish a single point of contact for the support, funding, administration and oversight of conservation districts, directors and staff and other cooperating organizations and individuals.

(d) Upon request of the commission, for the purpose of carrying out any of its functions, any agency of the Commonwealth and The Pennsylvania State University may assign or detail members of their staff or personnel to the commission to provide services and support and may make such special reports, surveys or studies as the commission may request.

(e) The commission shall consist of the Secretary of Environmental Protection or a designee, the Secretary of Agriculture of Pennsylvania or a designee, the Dean of the College of Agriculture of The Pennsylvania State University and four farmer members, who shall be farmers, to be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate. In appointing farmer members, the Governor shall consider nominees submitted by the associations known as the "Pennsylvania State Council of Farm Organizations," and the "Pennsylvania Association of Conservation Districts, Inc.," or their successor organizations. Each association shall nominate one candidate for each farmer member vacancy. Two public members who shall not be farmers shall also be appointed to the commission by the Governor with the advice and consent of a majority of the members elected to the Senate. The State Conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture, the Associate Director of the Cooperative Extension Service of The Pennsylvania State University, the President of the Pennsylvania Association of Conservation Districts, Inc., the Secretary of Conservation and Natural Resources or a designee and the Secretary of Community and Economic Development or a designee shall be associate, non-voting members of the commission.

(f) The commission may appoint other associate, non-voting members who may be selected and removed with a two-thirds vote of the voting members.

(g) The chairmanship of the commission shall rotate on an annual basis between the Secretary of Agriculture and the Secretary of Environmental Protection with the Secretary of Agriculture chairing the first annual rotation beginning July 1, 2007.

(h) The commission shall keep a record of its official actions, and may perform such acts and promulgate such policies, procedures, performance standards, guidelines, rules and regulations as may be necessary.

(i) The commission by a majority of its voting members shall select and employ an independent executive secretary to serve and report to the commission. The executive secretary shall not be supervised by the Department of Agriculture, the department or any other voting member entity. The commission

shall assign the executive secretary duties and responsibilities as required to fulfill its obligations under this and other acts.

(j) A majority of the voting members shall constitute a quorum and all decisions of the commission shall require a concurrence of the voting members of the commission.

(k) At the last regular meeting of the commission in the calendar year, a vice-chairperson shall be elected by the members of the commission and shall serve in that capacity for the ensuing year.

(l) The farmer and public members of the commission shall be appointed for a period of four years and shall hold office until their successors have been appointed and have qualified, but no longer than six months beyond the four-year period. The four farmer members' terms shall be so staggered that no more than one member's term shall expire each year while the two public members' terms shall be so staggered that no more than one member's term shall expire every second year. At the expiration of their terms of office or in the event of vacancies through death, resignation or otherwise, new farmer or public members shall be appointed to fill the unexpired terms of the members they are replacing. All farmer and public members of the commission shall be entitled to one hundred fifty dollars (\$150) per diem adjusted every four years for inflation plus reimbursement for reasonable traveling, lodging and other necessary expenses incurred in the discharge of their duties in accordance with Commonwealth regulations.

(m) The commission shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(n) An appointed member of the commission who fails to attend three consecutive meetings without cause shall forfeit his seat unless the chairperson of the commission, upon written request from the member, finds that the member should be excused from a meeting. The Governor may also remove an appointed member of the commission for malfeasance or misfeasance.

(2) At the request of the commission, the Attorney General and/or Office of General Counsel of the Commonwealth will provide such services as the commission may require. With respect to any program delegated by any department of the Commonwealth to a conservation district pursuant to section 11(2), at the request of the commission, the Attorney General and/or Office of General Counsel will provide such services as the conservation district may require. With respect to the performance of any duties or functions delegated to a conservation district by any department of the Commonwealth pursuant to section 11(2), the Commonwealth will defend and indemnify district directors, associate directors and district employees to the same extent as it defends and indemnifies Commonwealth employees, and such directors, associate directors and employees shall have all immunities afforded by law to Commonwealth employees.

(3) The commission shall have authority to delegate to its chairperson, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the commission, for the purpose of carrying out any of its functions, any agency of the Commonwealth and The Pennsylvania State University may assign or detail members of the staff or personnel to the commission, and may make such special reports, surveys or studies or provide services as the commission may request.

(4) (Deleted by amendment).

(5) In addition to the duties and powers herein conferred upon the commission, it shall have the following duties and powers:

(a) To offer such training, assistance and certification as may be appropriate to the directors, staff and volunteers of conservation districts;

(b) To keep the directors of each of the districts generally informed of activities and experience useful to other districts;

(c) To approve and coordinate the programs of the conservation districts or projects; to apportion among the several districts or to any agency of the Commonwealth, the United States or cooperating organizations any funds allotted from State, Federal or other sources; to be responsible for the expenditures of such funds by the districts; and to establish standards for conservation district audits;

(d) To secure the cooperation and assistance of any governmental agency and to be the agency through which government aid in land and water management and conservation of related resources can be extended to private lands;

(e) To disseminate information concerning the activities and programs of the conservation districts and to encourage the formation of such districts in areas where their organization is desirable;

(f) To accept contributions of money, services or materials to carry on land and water management and conservation of related resources under the provisions of this act;

(g) To designate the organizations within the county that may act in nominating persons for appointment as directors, as provided in section 6 of this act. Such designations may be changed from time to time as conditions may warrant;

(h) To approve applications for projects and recommend priorities for planning for watershed applications under the Watershed Protection and Flood Prevention Act, U. S. Public Law 566 of 1954, as amended;

(i) To approve applications for projects and recommend priorities for planning for applications under the Resource and Conservation and Development Program authorized by Public Law 87-703, the Food and Agriculture Act of 1962, as amended;

(j) To approve applications and recommend priorities for other Federal programs requiring State Conservation Commission participation;

(k) To provide assistance through conservation districts to environmental advisory councils created by municipalities pursuant to the act of December 21, 1973 (P.L.425, No.148), referred to as the Municipal Environmental Advisory Council Law;

(l) To approve the delegation of and contracting for certain functions and powers to districts and to monitor district activities in response to delegated functions and powers otherwise accepted by or contracted to districts;

(m) To review fees for services established by conservation districts for the purpose of determining if such fees are reasonable in relation to the scope of the service to be provided;

(n) To develop, implement and enforce programs which meet the purposes of this act, including nutrient management and odor management under 3 Pa.C.S. Ch. 5 (relating to nutrient management and odor management) and resource enhancement and protection tax credits under Article XVII-E of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(6) The commission shall have the power to receive such funds as appropriated, given, granted or donated to it, or to the program provided for in this act by the Federal Government, the Commonwealth or any other governmental or private agency or person, and shall use such funds for the carrying out of the provisions of this act. The commission may allocate such funds, or parts thereof, to the conservation districts or to any agency of this Commonwealth, the United States, or cooperating organization. Funds so allocated shall be apportioned in an equitable and just manner at the discretion of the commission, but the decision of the commission shall be final.

(7) The commission shall have the power to administer grant, loan and tax credit programs for landowners to implement non-point source and other best management practices on their properties. (4 amended July 9, 2008, P.L.986, No.75)

Compiler's Note: See section 503(d) of Act 18 of 1995 in the appendix to this act for special provisions relating to the modification of the powers and duties of the State Conservation Commission by Act 18 of 1995.

Compiler's Note: The State Conservation Commission is subject to periodic review under the act of Dec. 22, 1981, P.L.508, No.142, known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. For the current status of the commission, see the appendix to this act.

Section 5. Creation of Conservation Districts.

(1) When the county governing body determines, in the manner hereinafter provided, that conservation of soil and water, and related resources and control and prevention of accelerated soil erosion are problems of public concern in the county, and that a substantial proportion of the land owners of the county favor such a resolution, it shall be lawful for the said county governing body, by a resolution adopted at any regular or special meeting, to declare the county to be a conservation district, for the purpose of effectuating the legislative policy announced in section 2. These determinations may be made through petitions, hearings, referenda or by any other means which the county governing body deems appropriate.

(2) Such a district, upon its creation, shall constitute a public body corporate and politic exercising public powers of the Commonwealth as an agency thereof.

(3) All soil conservation districts and soil and water conservation districts created in the past under the provisions of this act shall henceforth be named conservation districts. (5 amended July 9, 2008, P.L.986, No.75)

Section 6. Designation of District Directors.

(1) When a county has been declared a conservation district, a board of directors, consisting of seven members, shall be appointed by the county governing body. This board of directors shall consist of one member of the county governing body, not more than four or less than two farmers, and not less than two or more than four public members who shall not be farmers. The commission may waive the requirement for two farmer members in first, second and second class-A counties upon the request of the conservation district and the county governing body consistent with section 6(1) and approved by the commission. The total number of directors shall always be seven, unless the commission, upon request of the district and the county governing body, approves a lesser or greater number in unusual or extenuating circumstances but in no case shall the number be less than five nor more than nine. The composition of the board shall be determined by the county governing body and approved by the commission before such change shall become effective; the farmer and public members to be appointed shall be selected from a list containing at least one eligible nominee for each director to be appointed, and such list is to be composed of eligible nominations submitted in writing by a qualified officer of the organizations designated by the commission. Upon receipt of notice from the commission of the organizations to be entitled to make such nominations, and having secured nomination lists, the county governing body shall appoint the proper number of directors. The composition of the board shall be determined by the county governing body and approved by the commission before such change becomes effective.

(2) The district board may appoint associate directors without voting power. (6 amended July 9, 2008, P.L.986, No.75)

Section 7. Appointment; Qualifications; Compensation; and Tenure of Directors.

(1) (a) The director appointed from the county governing body shall be appointed annually by the county governing body. A county governing body may require that a director of the conservation district be a resident of the county. The term of office for farmer and public directors will be four years, except that directors shall be appointed so that no more than three directors' terms shall expire in any one year, unless a conservation district board is comprised of more than seven directors as provided for in section 6. A director shall hold office until a successor has been appointed and has qualified but no longer than six months beyond the four-year period. Vacancies shall be filled for the unexpired terms.

(b) (i) Successors to fill full terms shall be appointed by the county governing body from a list containing at least one eligible nominee for each director to be appointed, and such list shall be composed of eligible nominations submitted in writing by a qualified officer of each of the organizations designated by the commission.

(ii) Successors to fill unexpired terms shall be appointed by the county governing body as in subparagraph (a) or from a list of the associate conservation district directors who have had two or more years of active service with that district and who meet the commission's eligibility criteria for

the unexpired term. The names and contact information, including home addresses of all directors, shall be provided to the commission by the county governing body within thirty days of their appointment. The final list of nominations shall be placed on file by the county governing body and shall be open to public inspection. In filling unexpired terms, the county governing body may make appointments from any list prepared in the above manner that has been compiled within the twelve months preceding such appointments.

(2) The director appointed from the county governing body shall receive no additional compensation but shall receive traveling expenses as allowed as a member of the county governing body. The other members of the board of directors shall serve without pay, unless, at the district's request, the commission approves the district's request to pay directors for services rendered on specific projects at a rate approved by the commission. The directors may be paid a per diem and may be reimbursed for actual and necessary expenses incurred while engaged in the performance of their official duties, provided funds are made available by the county governing body or by the commission for such purpose, and under such terms and conditions as established by the commission. (7 amended July 9, 2008, P.L.986, No.75)

Section 8. Organization of Directors.

(1) The board of directors of the district shall be the governing body thereof. At their first meeting in the calendar year they shall elect a chairperson and vice-chairperson and elect or appoint a secretary and/or treasurer who may or may not be a member of the board and such other officers as deemed necessary. A majority of the voting members shall constitute a quorum. The directors may delegate to their chairperson, or to one or more directors, such powers and duties as they shall deem proper. The directors shall furnish to the State Conservation Commission, upon request, copies of such rules, orders, contracts, forms and other documents they adopt or employ and such other information concerning their activities as the commission may require in the performance of its duties under this act.

(2) The board of directors shall provide for the execution of surety bonds for any members or employees who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; shall prepare and distribute annual reports and shall provide for an annual audit of the accounts of receipts and disbursements.

(3) The board of directors may invite the governing body of any political subdivision to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such political subdivision.

(4) A director absent from regular district meeting three or more times during a year without due cause may be replaced by the county governing body.

(5) The county governing body may remove a district director from the district board for malfeasance or misfeasance. The commission shall establish guidelines, policies and procedures for the removal of a district director. ((5) added July 9, 2008, P.L.986, No.75)

Section 9. Powers of Districts and Directors

The directors of a district shall have the following powers in addition to those granted in other sections of this act:

(1) To conduct surveys, investigations and research relating to the character of soil erosion and the preventive control measures needed and to publish the results of such surveys, investigation or research, and disseminate information concerning such preventive and control measures after securing approval from the commission and to provide notification and documentation to the commission to avoid duplication of existing work;

(2) To employ the necessary personnel to properly conduct the operations of the district and provide adequate and necessary insurance coverage for directors and employees, and appropriate fringe benefits for employees, provided funds are available for such purposes;

(3) To carry out preventive and control measures within the district, including but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land and drainage operations on lands owned or controlled by this Commonwealth or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the written consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate or enter into agreements with, and to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district in carrying on erosion and sediment control and prevention operations and other best management practices, for effective conservation and utilization of the lands within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this act: Provided, however, That such agreements are within the limits of available funds or within appropriations made available to it by law;

(5) To obtain options upon, and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property real or personal or right or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; to sell, lease or otherwise dispose of any of its property or interests therein; and to borrow and invest money and to apply for, receive and use low-interest loans in furtherance of the purposes and the provisions of this act;

(6) To make available on such terms as it shall prescribe to land occupiers within the district, agricultural and engineering machinery and equipment; fertilizer, seeds and seedlings and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the effective conservation and utilization of soil resources; and for the prevention and control of soil erosion;

(7) To construct, improve and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To assist and advise owners and occupiers of land in developing and/or implementing plans for storm water management, water use, water management and water pollution control, soil erosion control and conservation of water and soil resources, including recommended engineering practices, cultivation methods, cropping programs, tillage practices and changes of land use;

(9) To assist and advise county and municipal governments in subdivision and land development reviews, developing and implementing storm water management plans and programs and in administering programs for flood control, flood plain management, water use, water management and water pollution control and other natural resource concerns;

(9.1) To engage in any of the following activities: wetland construction and maintenance; reclamation of mine lands; reclamation of soil erosion; water management; management of parks, trails and related facilities; management of forest lands and roads; road maintenance; odor management and air quality; development of alternative energy resources; or any other natural resource program approved by the commission. Nothing in this subsection is intended to diminish, limit or interfere with the authority provided State agencies under other laws of this Commonwealth;

(10) To conduct educational programs relating to any natural resource program approved by the conservation district and to publish related educational materials;

(11) To accept, upon approval by the commission, any authority delegated by municipal or county governments, the Commonwealth or Federal Government;

(12) To sue and be sued in the name of the district; to have perpetual succession unless terminated as hereinafter provided; to make policies and procedures necessary or convenient to the exercise of its powers and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act to carry into effect its purposes and powers;

(13) (a) As a condition to extending any benefits under this act, or to the performance of work upon any lands not owned or controlled by the Commonwealth or any of its agencies, the board of directors

may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the long term use of such lands as will tend to prevent or control accelerated erosion thereon.

(b) On lands owned or controlled by the Commonwealth or any of its agencies, the Commonwealth, at its sole discretion, may agree to fee schedules for work performed by the district for State-delegated program duties specifically related to earth disturbance, erosion and sediment control or stream encroachments.

(c) To enter into a contract or agreement with Federal, State, county and local Governments for payment for work performed or services rendered by the district consistent with this act.

(14) No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state;

(15) To accept contributions of any character from any source whatsoever, but only by and with the consent and approval of the commission, unless the funding is from the Federal, State or local Government or unless specifically authorized so to do by this act;

(16) To sponsor projects under the Watershed Protection and Flood Prevention Act, U.S. Public Law 566 of 1954, as amended, and the Resource and Conservation and Development Program authorized by Public Law 87-703, the Food and Agriculture Act of 1962, as amended;

(17) To enter public or private property to make such inspections as are necessary to determine compliance with the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law"; the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act," and any rules, regulations, permits or orders issued thereunder, to the extent that such inspection authority has been delegated to a district by the department;

(18) To establish a program of assistance to environmental advisory councils which may include, but not be limited to, educational services, exchange of information or assignment of administrative and/or technical personnel; and

(19) No agent or employe of a conservation district or other Commonwealth agency or political subdivision engaged in the planning, design, construction or regulatory review of soil and water conservation projects and practices under the authority of this act, "The Clean Streams Law," or delegations pursuant to paragraph (2) of section 11 of this act shall be considered to be engaged in the practice of landscape architecture. (9 amended July 9, 2008, P.L.986, No.75)

Section 10. Cooperation between Districts.

The directors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act and, upon approval of the county governing bodies and the State Conservation Commission, may create official special purpose or watershed organizations to solve specific problems of a multicounty or multistate nature.

Section 11. Commonwealth Agencies to Cooperate

(1) Agencies of this Commonwealth and agencies of any county or other governmental subdivision of the Commonwealth may cooperate with the directors of any districts organized hereunder in the effectuation of programs and operations undertaken by the board of directors under the provisions of this act.

(2) (a) In accordance with regulations adopted by the Environmental Quality Board, the department may, by agreement, delegate to a district one or more of its regulatory and enforcement functions, including, but not limited to, the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and the rules and regulations adopted thereunder; the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act;" the act of October 4, 1978 (P.L.851, No.166), known as the "Flood Plain Management Act," and the rules and regulations adopted thereunder; the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act,"

and the rules and regulations adopted thereunder; and the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act," and the rules and regulations adopted thereunder.

(b) Any other State agency, in accordance with the regulations, guidelines or policies adopted by the agency may, by agreement, delegate to a district one or more of its regulator and enforcement functions.

(c) Any district acting pursuant to a delegation agreement shall have the same powers and duties otherwise vested in any delegating department or agency of this Commonwealth to implement these acts, to the extent delegated by the agreement. Any delegating department shall monitor and supervise the activities of each district conducted pursuant to a delegation agreement. Any person aggrieved by an action of a district pursuant to a delegation agreement may appeal such action pursuant to 2 Pa.C.S. § 105 (relating to local agency law), within thirty days following notice of such action.

(d) Prior to the commission's approval of any delegation agreement, any Commonwealth agency proposing a delegation agreement must provide the commission with the following:

- (i) an analysis of funding sources for the proposed delegation agreement;
- (ii) an estimation of the current and projected amount of funds or compensation to be provided for proposed delegation agreement;
- (iii) any conditions, limitations or other factors that affect or potentially affect the proposed funding sources;
- (iv) any additional resources outside of the proposed funding in support of the proposed delegation agreement; and
- (v) a clear delineation of the duties, authorities, deliverables and tasks to be performed under the delegation agreement.

(3) (Deleted by amendment). (11 amended July 9, 2008, P.L.986, No.75)

Section 12. Discontinuance of Districts

(1) The county governing body of any county in which, by resolution, such county was declared to be a conservation district, may at any time after five years from the passage of said resolution and after determining that a substantial proportion of the land occupiers of the district so desire, and upon approval by the commission, repeal said resolution at a regular or special meeting of said county governing body. This determination may be made through hearings, petitions, referenda or any other means which the county governing body deems appropriate.

(2) Upon the repeal of the resolution which declared the county to be a conservation district, the directors may not enter into any more contracts or agreements on behalf of the district, and all rules and regulations theretofore adopted and in force within such district shall be of no further force and effect. Such district, however, shall continue for a period not to exceed four years for the purpose of fulfilling its contracts, discharging any existing obligations, collecting and distributing its assets and doing all other acts required to adjust and close out its affairs. ((2) amended July 9, 2008, P.L.986, No.75)

(3) Upon repeal by the county governing body of the resolution declaring the county to be a district, the directors shall, at public auction, dispose of all property belonging to the district as soon as said property is no longer needed by the district to fulfill any existing contracts, and shall forthwith pay over the proceeds of such sale, less the necessary costs of the sale, into the county treasury. The directors shall, at least ten days prior to holding such public auction, notify the commission of the property proposed to be sold thereat, and after such sale shall render to the county governing body and to the commission a report of such sale specifying the property sold, the amount received therefor and the disposition of the proceeds. Such report of the sale shall also be accompanied by a list of the remaining property of the district still undisposed of.

(4) Any property, real or personal, remaining unsold at the end of two years shall be taken over by the county governing body for proper disposition and the proceeds derived therefrom placed in the county treasury.

Section 13. County Governing Body's Appropriations.

The county governing bodies of the several counties of this Commonwealth are hereby authorized to appropriate annually out of the current revenues of the county, moneys to the conservation district, properly organized and functioning under the provisions of this act, and located within the county. The amount appropriated shall be determined as in the case of county appropriations, or appropriations of cities of the first class, as the case may be.

Section 14. Funding.

(a) The General Assembly of the Commonwealth shall appropriate from time to time as may be necessary, moneys out of the General Fund to administer the provisions of this act.

(b) There is created a special fund in the State Treasury to be known as the Conservation District Fund. State funds appropriated for assistance to local conservation districts shall be deposited in the fund. All money in the fund and the interest it accrues are appropriated to the commission for allocation to the conservation districts for activities necessary to meet the requirements of this act.

(c) The fund may be supplemented by moneys received from the following sources:

(1) State funds appropriated to conservation districts or the commission.

(2) Federal funds appropriated to conservation districts, the commission or other agencies of the Commonwealth.

(3) Programs delegated to or contracted to conservation districts by any agency of the Commonwealth.

(4) Proceeds from the sale of any bonds made available to the commission.

(5) Gifts and other contributions from public and private sources.

(6) Any fees collected by the commission.

(d) The commission shall have the duty and authority to do all of the following:

(1) Adopt criteria and procedures for the allocation of moneys in the fund.

(2) Create accounts within the fund for the purposes of providing funding for the programs authorized by this act.

(3) Provide for provisions to make advance payments and reimbursements to conservation districts for approved purposes.

(4) Make payments to conservation districts or any agency designated by the commission in accordance with the requirements of the agency from which the funds originated.

(e) Funds allocated to conservation districts shall be used for costs associated with implementing programs delegated or contracted by the Commonwealth, environmental education, programs to protect the environment approved by the commission or for activities necessary to meet the requirements of this act.

(f) For the purposes of this section, a conservation district shall be exempt from State contracting guidelines and eligible for advance funding.

(g) The fund shall not be subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).

(h) The money in the fund shall only be used for the purposes authorized by this act and shall not be transferred or diverted to any other purpose. (14 amended July 7, 2006, P.L.1059, No.110)

Section 15. Acts Repealed.

The act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), entitled "An act relating to soil conservation and soil erosion, and regulating land use practices contributing to soil wastage and soil erosion; providing for the organization of soil conservation districts, as governmental subdivisions of the Commonwealth, with powers of enacting ordinances and regulations for the prevention and control of soil erosion and the conservation of soil resources; prescribing the officers and employees thereof, and defining their powers and duties; creating the State Soil Conservation Board in the Department of Agriculture and imposing powers and

prescribing duties thereon relative to the enforcement of this act; providing financial assistance to such soil conservation districts; prescribing penalties, and making an appropriation," as amended, is hereby repealed, except that districts now chartered and operating under said acts, lying wholly in one county, may continue to operate thereunder with the State Soil Conservation Commission replacing the State Soil Conservation Board until the board of county commissioners, in the county in which such district is located, declare the county to be a soil conservation district at which time their affairs shall be closed out and all assets and records turned over to the board of directors of the newly declared district, or when a district now chartered and operating under said acts has boundaries which extend into two counties it may continue to operate thereunder with the State Soil Conservation Commission replacing the State Soil Conservation Board until the county commissioners, in the county in which the major part of such district is located, declare that county to be a soil conservation district, at which time the affairs of such district shall be closed out and all assets and records turned over to the board of directors of the newly declared district (in the case where a soil conservation district now organized shall comprise territory outside of the county containing its principal territory, the portion outside shall be administered by the board of directors of the newly formed district comprising the county where the principal territory is located until such time as the county where the outside portion is located shall constitute itself a soil conservation district under this act, whereupon the said outside portion shall become a part of the county district wherein it is geographically located) and in cases where the board or boards of county commissioners fails or fail to organize under this act, said district or districts may continue to function as heretofore under said acts.

Section 16. Contracts to Remain in Force.

Whenever any lands which constitute all or a part of a soil conservation district created pursuant to the act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), and its amendments, become a part of a district created by resolution of the board of county commissioners, all contracts theretofore entered into to which the former district or supervisors thereof were parties, shall remain in force and effect for the period provided in such contracts, and the directors of the newly created district shall be substituted for the supervisors of the former district as party to those contracts relating to lands lying within the district of which they are directors.

The representative directors of the district created by the board of county commissioners shall be entitled to all the benefits and be subject to all liabilities under such contracts, and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, including the right to terminate such contracts by mutual consent or otherwise as the supervisors of the district created, pursuant to the act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), and its amendments.

Section 17. Effective Date

This act shall become effective immediately upon its final enactment.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1986, APRIL 30, P.L.128, NO.39

Section 2.

This act, with respect to the State Conservation Commission, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, and the commission is hereby reestablished.

Compiler's Note: Act 39 amended sections 4, 6 and 7 of Act 217.

Section 3.

The presently confirmed members of the State Conservation Commission as of the effective date of this act shall continue to serve as commission members until their present terms of office expire, provided that any present commission member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act. Any person presently serving on the board of directors of a conservation district shall continue to serve as a board member until his present term of office expires.

Section 4.

Each rule and regulation of the State Conservation Commission in effect on the effective date of this act and not inconsistent with this act shall remain in effect after such date until repealed or amended by the commission, provided that the commission shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.

1995, JUNE 28, P.L.89, NO.18

Section 503.

Continued authority of Department of Environmental Protection, State Conservation Commission and Department of Agriculture.

* * *

(d) State Conservation Commission.

State Conservation Commission.--The State Conservation Commission established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law, shall continue to have all the powers and duties assigned under that act and all the powers and duties assigned under the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, except as modified below. The following provisions are intended to modify the authority and responsibilities of the State Conservation Commission and the Department of Environmental Protection and the Department of Agriculture:

(1) The chairmanship of the State Conservation Commission shall rotate on an annual basis between the Secretary of Agriculture and the Secretary of Environmental Protection with the Secretary of Agriculture chairing the State Conservation Commission for the first annual rotation beginning July 1, 1995.

(2) The State Conservation Commission by a majority vote shall select and employ an independent executive secretary to act as staff to the State Conservation Commission who is not supervised by either the Department of Environmental Protection or the Department of Agriculture. The State Conservation Commission is authorized to assign the executive secretary duties and responsibilities as required to fulfill its obligations under State law to develop, implement and enforce conservation programs, including the Nutrient Management Act.

(3) To enhance the ability of the State Conservation Commission to accomplish its obligations, the Secretary of Agriculture shall designate an office and staff within that agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission that solely affect production agriculture. The office and staff designated by the Secretary of Agriculture shall be an advocate for production agriculture in the development of programs by the State Conservation Commission, assist in developing methods of managing excess manure in an environmentally sound manner, develop programs to assist those engaged in production agriculture to comply with the Nutrient Management Act and act as an ombudsman to help resolve issues related to county conservation district implementation of State Conservation Commission programs solely affecting production agriculture.

(4) The Secretary of Environmental Protection shall designate an office and staff within the agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission which are intended, in whole or in part, to protect surface or ground water.

(5) The State Conservation Commission shall be responsible for taking enforcement actions under the Nutrient Management Act. In the exercise of its enforcement authority, the State Conservation Commission shall be assisted by the staff of the Department of Environmental Protection for actions resulting in violations of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and shall be assisted by the Department of Agriculture for all other violations.

Compiler's Note: Act 18 of 1995 created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection.

State Conservation Commission Policies and Procedures

DRAFT

I. Mission Statement - (Adopted Jan. 11, 1990)

"It is the mission of the State Conservation Commission to ensure the wise use of Pennsylvania's natural resources and to protect and restore the natural environment through the conservation of its soil, water and related resources. In carrying out its legal mandates, the commission will provide program and policy leadership and support to conservation districts. The commission will encourage and assist conservation districts to develop and maintain managerial, technical and administrative capability in order to effectively administer their mandated responsibilities. The commission will administer all responsibilities entrusted to it in a manner deserving the public's trust."

II. History

On July 2, 1937, Governor George H. Earle signed Act 557, know as the "Soil Conservation Districts Law." The act created the State Soil Conservation Board in the PA Department of Agriculture and established procedures for the creation of conservation districts. The Board consisted of the Secretary of Agriculture, Secretary of Forests and Waters, Secretary of Highways, Director of the State College Experiment Station and Chief Engineer of the Water and Power Resources Board.

Act 557 stipulated that districts could be created on a watershed basis upon (1) approval by ballot of 65% of land occupiers in the watershed, and (2) approval of the State Soil Conservation Board. The State Soil Conservation Board appointed two supervisors to serve with the three supervisors elected by the land occupiers within the boundaries of the district. Once the district was created, it was empowered to establish a soil erosion plan for the entire area affected. Landowners in the area become subject to the provisions of the plan.

Because of the newness of the district concept and fears of the powers granted to district supervisors, the district program within the State grew rather slowly. As a result, legislation was passed in 1945 to drastically change the district concept. This act provided for the creation of the State Soil Conservation Commission in the PA Department of Agriculture. The Commission consisted of the Secretary of Agriculture, Secretary of Forests and Waters, Dean of the College of Agriculture at Penn State and three farmer members. Miles Horst, Secretary of Agriculture, served as first Chairman of the State Soil and Water Conservation Commission and William Hager served as first Executive Secretary of the Commission.

In 1963, the name of the Commission was changed to the State Soil and Water Conservation Commission. In 1967, Act 217 was amended to increase the farmer member to four and to add two urban members to the Commission and to change the name to the State Conservation Commission. In 1971 the administrative responsibility for the State Conservation Commission was removed from the Department of Agriculture and place within the Department of Environmental Resources with Dr. Goddard serving as chairman.

With the passage of H.B. 1400 in 1995, the State Conservation Commission became an independent commission administratively located between the Department of Environmental Protection and the Department of Agriculture. The act authorized the Commission to employ an independent executive secretary not supervised by either the Department of Agriculture or Environmental Protection. This act further provides that the chairman of the Commission annually rotate between the Secretaries of Agriculture and Environmental Protection and that both departments provide staff to assist the executive secretary in carrying out his responsibilities.

The State Conservation Commission, serving as the right arm of the districts, continually strives to develop programs and initiatives to strengthen districts. The rapidly increasing capabilities of districts, the conscientious boards comprised of 476 volunteer district directors, the increasing capabilities of 330 district staff member and increased funding made available by county and state governments have made it possible for today's conservation districts forefathers.

Today, all 66 conservation districts have been delegated some degree of authority for the Chapter 102 Erosion and Sediment Pollution Control Program, 40 districts have accepted Chapter 105 Wetlands and Stream encroachment authorities, 35 districts are administering portions of the Chesapeake Bay Program, 61 districts have been granted authorities for the NPDES Program, 14 districts have been granted authorities for the agricultural application of septage and sewage sludge, all 66 districts conduct environmental education and public awareness programs and it is anticipated that nearly all districts will accept some degree of authority for the new Nutrient Management Program.

Other programs in which districts are involved include abandoned mine reclamation, watershed protection projects, Delaware Estuary and Coastal Zone Programs, stream restoration projects, administration of the PA Ag Land Preservation Program, tree planting and forestry programs and non-point water quality improvement programs and projects.

III. Policy for Matters Requiring Approval by the State Conservation Commission

The Conservation District Law, Act of May 15, 1945, P.L. 217, as Amended April 30, 1986, Act No. 39, grants many powers and duties to the State Conservation Commission. Some are permissive and general in nature while others are specific and clearly require the Commission to make an approval.

The purpose of this policy is to establish and clarify the matters, which require Commission approval, based on the powers and duties listed below.

Powers and Duties of the State Conservation Commission

The powers and duties of the Commission are established in Section 4 (5) and Section 9 (1) and (15) of the Conservation District Law.

A. Section 4 (5) "In addition to the duties and powers herein conferred upon the Commission, it shall have the following duties and powers:

(c) To approve and coordinate the programs of the conservation districts or projects; to apportion among the several districts or to any agency of the Commonwealth, the United States or cooperating organizations any funds allotted from State, Federal or other sources; and to be responsible for the expenditures of such funds by the districts;

(g) To designate the organizations within the county that may act in nominating persons for appointment as directors, as provided in section 6 of this act. Such designations may be changed from time to time as conditions may warrant;

(h) To approve applications for projects and recommend planning priorities for watershed applications under the Watershed Protection and Flood Prevention Act, U.S. Public Law 566 of 1954, as amended;

(i) To approve applications for projects and recommend priorities for planning for applications under the Resource and Conservation and Development Program authorized by Public Law 87-703, The Food and Agriculture Act of 1962, as amended;

(j) To approve applications and recommend priorities for other Federal programs requiring State Conservation Commission participation;"

B. Section 9 (Pertaining to the Powers of Districts and Directors)

(11) To accept, upon approval by the State Conservation Commission, any authority delegated by municipal or county governments, the Commonwealth or Federal Government;

(15) To accept contributions of any character from any source whatsoever, but only by and with the consent and approval of the State Conservation Commission, unless the funding is from other governmental agencies or unless specifically authorized so to do by this act;

Approval of Conservation District Programs and Projects

The principal reason for the State Conservation Commission to approve district programs is to ensure that conservation districts initiate and administer programs that are within their resources and the authorities granted to them by Act 217.

The intent of most of the aforementioned powers and responsibilities is clear. However, district programs and projects that require formal Commission approval are clarified by the following criteria.

Matters Requiring Approval by the State Conservation Commission or the Executive Secretary as authorized by the State Conservation Commission

1. Memoranda of Understanding when any State or Federal agency is party to the memoranda. (Section 4 (5) c, d)
2. Entering into contracts, when the estimated project cost exceeds \$250,000. (Section 4 (5) c)
3. Allocations for the Conservation District Fund Allocation Program areas and the reallocation of funds. (Section 4 (5) c and (6))
4. Allocations and program direction for the Chesapeake Bay Nonpoint Pollution Program (Title 25 101-149) and other nonpoint source pollution programs implemented in whole or in part under the Commission's legal authority. (Section 4 (6))
5. The format for contracts or agreements for the Landowner Reclamation Program (The Commission has authorized the Executive Secretary to sign specific agreements). (Section 4 (5) c and (6))
6. Public Law 566 projects. (Section 4 (5) h)
7. Resource and Conservation and Development Program project areas. (Section 4 (5) i)
8. Other federal programs requiring Commission approval. (Section 4 (5) j)
9. The addition or deletion of organizations from the list approved to nominate district directors. (Section 4 (5) 9) The Executive Secretary of the State Conservation Commission has authority to approve changes provided these changes are consistent with Commission Policy. (See Attachment #1)
10. Increases or decreases in the number of directors on a district board. (Section b (1)) The Executive Secretary of the State Conservation Commission has authority to approve changes only when they are consistent with Commission Policy on increasing or decreasing the number of directors on a district board. (See Attachment #2)
11. Changes in the composition of the board of directors. (Section 6 (1)) The Executive Secretary of the State Conservation Commission has authority to approve changes only when they are consistent with Commission Policy on changing the composition of the board of directors. (See Attachment #3)
12. Conservation district long-range work programs. (Section 4 (5) c)
13. A district's acceptance of any authority delegated by municipal or county governments, the Commonwealth or the Federal government. (Section 9 (11))

14. Contributions to a conservation district, of any character and from any source, unless the funding is from another governmental agency, or unless specifically authorized under Act 217 (i.e. the purchase, exchange, lease, gift, or grant of any real property (Section 9(5))).

a. For contributions of any character, valued at \$10,000 or less, a district may accept such donations if the following criteria are met:

1. Action to accept the donation(s) is taken by the board of directors at an official meeting of the board;
2. The acceptance of the approved donation(s), the amount, source and the intended use is clearly noted in the minutes of the conservation district meeting;
3. The amount of the donation(s) and the source(s) are specifically recorded in the district's financial records and is subject to the annual audit of the district's financial records;
4. The contribution is made and accepted with the clear understanding that it is not intended in any way to influence any vote, official action, or judgment of the district board or any of its members or district staff; and

b. Acceptance by a district of an individual contribution valued at more than \$10,000 requires approval of the Commission. The Executive Secretary of the Commission is authorized to approve individual donations of up to \$50,000 and shall report such action at the next regularly scheduled meeting of the Commission. Individual donations exceeding \$50,000 shall be considered by the full Commission at its next regularly scheduled meeting.

c. Nothing in this policy shall in any manner exempt, change, modify or negate any portion of the Pennsylvania Ethics Law or any other law that governs or restricts the conduct of an individual conservation district director or conservation district staff member.

d. Donations made to conservation districts as a part of a settlement agreement that is overseen by a governmental entity (state agency, attorney general, etc.) are viewed as funds provided by other governmental agencies for purposes of this policy.

15. Executive Secretary shall report all actions taken on behalf of the Commission, pursuant to this policy, at the next regular scheduled meeting of the SCC. In addition, the Executive Secretary shall provide acknowledgement of each action taken by the SCC to each district required to submit items for Commission approval under this policy.

Matters Requiring Commission Notification

Commission approval is not required for the following matters; however, notification of the Commission is required.

1. Memoranda of Understanding and/or other formal agreements between the district and county agencies or local municipalities.
2. Appointment of district directors.
3. District's annual program of work.
4. District's annual budget and financial report.
5. District Audit

Matters That Do Not Require Commission Approval or Notification

No Commission approval or notification is required for the following matters:

1. Purchases of supplies by districts for resale.
2. Purchases of supplies of equipment for normal district operations, including such items as vehicles, no-till planters, and office equipment.
3. Charging fees for services rendered by the district as long as the district's fee schedule and related policies conform with the Commission's policy on fees as required by law or regulation. All exceptions will require Commission approval. (See Attachment #4)
4. Landowner Reclamation Program agreements with individual landowners.

IV. Conservation District Fees for Services

A. Background

Fees for services are a source of revenue for many conservation districts. Some fees are required by law, regulations or delegation agreements. Others are determined by the districts as appropriate and/or necessary to support the services they provide. The opportunities to charge fees expand as district responsibilities and services grow. Laws and delegation agreements define the authority for the fees that districts may charge. This policy outlines the authorities, guidelines and limitations for conservation district service fees.

For the purpose of this policy, "Fees for Services" are defined as those charges a conservation district may assess for processing permits and plans, or providing technical assistance, as authorized by state laws or regulations and as authorized through delegation agreements or contracts. These include fees that may be referred to by conservation districts as "E&S Review Fees," "Clean Water Fees," "E&S Plan Fees," "NPDES Fees," "Environmental Fees," "Subdivision Plan Review Fees," or similar references.

For the purpose of this policy, "Fees for Services" are **not** defined as revenues generated from product sales (e.g. tree seedlings, bulbs, maple syrup, etc.), copy machine use fees, educational

workshop registration fees, office supply fees, or other charges assessed for costs not associated with state laws, regulations, or delegation agreements or contracts.

1. Authority

i. Conservation District Authority to Charge Fees

Conservation Districts have the authority to charge fees under the following sections of *The Conservation District Law*:

- a. Section 9 (11) - To accept, upon approval by the State Conservation Commission, any authority delegated by municipal or county governments, the Commonwealth or Federal Government;
- b. Section 9 (13) - As a condition to extending any benefits under this act, or to the performance of work upon any lands not owned or controlled by the Commonwealth or any of its agencies, the board of directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits...
- c. Section 9 (15) - To accept contributions of any character from any source whatsoever, but only by and within the consent and approval of the State Conservation Commission, unless the funding is from other governmental agencies or unless specifically authorized so to do by this act;

ii. State Conservation Commission Authority to Regulate Fees

The State Conservation Commission has the authority to regulate fees under the following section of *The Conservation District Law*:

- a. Section 4(5)(c) – To approve and coordinate the programs of conservation districts or projects; to apportion among the several districts or to any agency of the Commonwealth, the United States or cooperating organizations and funds allotted for State, Federal or other sources; and to be responsible for the expenditure of such funds by districts;
- b. Section 9 (11) - To accept, upon approval by the State Conservation Commission, any authority delegated by municipal or county governments, the Commonwealth or Federal Government;
- c. Section 9 (15) - To accept contributions of any character from any source whatsoever, but only by and within the consent and approval of the State Conservation Commission, unless the funding is from other governmental agencies or unless specifically authorized so to do by this act;

iii. Program Delegation Agreements and Contracts:

Through delegation agreements other agencies may convey their authority to collect fees to districts. These authorities may be limited by the authority of the delegating agency and the provisions of the delegation agreements or the program contract. See Addendum A for additional information pertaining to specific delegated and contracted programs.

II. Policy

- Districts may charge appropriate fees for services or activities as authorized by state laws or regulations and as authorized through delegation agreements or contracts.
 - i. Fee schedules should be equitable and may reflect the district's full costs of providing the services that are not reimbursed by the program.
 - ii. For delegated programs:
 - a. District revenue from program reimbursement and program-authorized fees may not exceed the districts cost to carry out the delegated activities.
 - b. With approval of the delegating program, district boards may adopt provisions for reducing or waiving fees.
 - c. Authorities delegated to districts are to be exercised within the scope of program delegation agreements, priorities and resources. These authorities are not to be employed for the purpose of enhancing demand (increasing revenue) for fee-based services.
 - d. Districts may charge additional fees for related services that are not included in delegated responsibilities.
 - e. In order to receive the liability coverage extended to district officials under delegation agreements, all activities must be undertaken in strict accordance with the requirements of applicable laws, regulations, delegation agreements and delegating state agency guidance.
 - iii. For contracted programs, districts may charge fees for services or activities as authorized in the specific contract.
 - iv. Districts are not authorized by the ***Conservation District Law*** to charge fees for services related to work on lands owned or controlled by the Commonwealth or any of its agencies, such as Pennsylvania state departments, commissions or offices.
 - v. Districts may charge fees for services related to work on lands owned or controlled by local government agencies including counties, cities, townships and boroughs as well as school districts and authorities that are created by local government units.
 - vi. District MOUs with NRCS may prevent fees from being charged for any services that involve NRCS funding, staff and/or professional responsible charge.
- Before districts can collect fees, district boards must, in a legal meeting conducted under the Sunshine Law and by majority vote, formally adopt a fee schedule detailing amounts to be charged and the effective dates of fee schedules.

- Copies of fee schedules must be provided to the Commission upon adoption or when updated. Revenues generated by these fees must be reported to the Commission annually. *(Note: Each district shall provide a copy of its fee schedule upon adoption of this revised policy; Annual reporting of fee revenue will initially be accomplished through existing 102/105 reporting.)*
- Local governments may obligate the use of district services such as review and approval of erosion and sedimentation control plans, stormwater management plans and nutrient management plans.
 - i. Districts may enter into agreements with local governments that can obligate the use of district services.
 - ii. Local governments may adopt ordinances that obligate the use of district services.
 - iii. These agreements and ordinances should reference fee schedules if districts are to charge fees for these services. However, the specific conservation district fee schedule does not need to be a part of the local ordinance or agreement.
 - iv. Agreements or ordinances are recommended. However, districts may charge fees for these services without agreements or ordinances.
- Districts may enter into agreements with any entity to provide services for reasonable fees. These services include, but are not limited to, environmental education, workshops, and video or educational products. District fee schedules for these services, if applicable, should be included in these agreements. See the “Policy for Matters Requiring Approval by the State Conservation Commission” for additional information
- Districts may accept contributions from government agencies or, upon approval by the Commission, any other source. See the “Policy for Matters Requiring Approval by the State Conservation Commission” for additional information on accepting contributions or donations.

Addendum A

Through the implementation of delegated and contracted programs determinations and practices have further defined guidance applicable to district fees for services. This Addendum contains this additional guidance.

General

Under the Conservation District law, local government agencies including counties, cities, townships and boroughs as well as school districts and authorities that are created by local government are not considered agencies of the Commonwealth. Districts may charge fees for services related to work on lands owned or controlled by these agencies.

Although the Conservation District Law prohibits districts from charging fees for work performed on lands owned or controlled by Commonwealth agencies, districts may enter into agreements with Commonwealth agencies that include reimbursement for these services.

On January 9, 1986, the Commission concurred with a legal interpretation that districts do not need Commission approval to charge fees. However, the Commission urged caution on the part of districts when considering the matter of charging fees. Districts should carefully consider the advantages and disadvantages of charging for their services.

Charging more and/or higher fees increases client expectations for quality services and the possibility of lawsuits against the district. The adoption of fee schedules places additional importance on districts providing quality services with competent/qualified staff and complying with applicable laws, regulations and agreements. Also, disparate fees charged by neighboring districts for similar services can also be a concern.

NPDES Stormwater Program

The policy for the district's review of erosion and sediment control plans associated with the NPDES stormwater permits for discharges from construction activities is set forth in the required output measures in the Program's Administrative Policy and Permitting Manual.

Participating districts must establish plan review policies that set forth the types or locations of earth disturbance activities for which they intend to conduct technical reviews and charge fees.

102 Program

If a district requires an erosion and sediment control plan to be filed under the authority of Section 102.4 of the Department's regulations, it may not charge a plan review fee. If, for any reason, a person conducting the earth disturbance or their agent requests a letter of approval from the district, a fee is then permissible.

105 Program

Although the 105 Program regulations prevent districts from charging a 105 general permit processing fee, districts may charge fees for technical services not included in the delegated responsibilities to assist applicants with planning, development and implementation of projects to be covered by 105 permits.

Nutrient Management Program

On January 7, 1993, the Commission approved a request from a district to charge a fee for developing a nutrient management plan and another district's request to charge a fee for the review of the nutrient management plan, provided the district does not charge a fee for services provided through state reimbursed hours. However, as with all fees collected by districts under the authority of Act 6 they must be forwarded to the state Nutrient Management Fund.

V. Conflict of Interests

PROVISIONS OF THE PUBLIC OFFICIALS AND EMPLOYEE ETHICS LAW (ETHICS ACT) THAT PERTAIN TO CONSERVATION DISTRICTS

The Ethics Act was passed on October 4, 1978 (P.L.883, No. 170) and was reenacted and amended in 1989. The stated purpose of that Act is "to strengthen the faith and confidence of people of the State in their government" by assuring the public that the financial interests of holders of or candidates for public office present neither a conflict or an appearance of a conflict with the public trust.

Because conservation district directors are volunteers, the State Conservation Commission asked the State Ethics Commission in October, 1987 if conservation districts and district directors are exempted from the provisions of the Ethics Act. The State Ethics Commission in December, 1987, ruled that district directors are public officials and, as such, are subject to the provisions of the Ethics Act.

In an effort to clarify the implications that this ruling placed on conservation district boards, district directors and district staff, the State Conservation Commission approved this guidance document regarding the Ethics Act and conflict of interest on January 11, 1990.

Since it has been determined that conservation districts are public agencies, conservation districts directors are considered as public officials and district staff as public employees subject to the provisions of the Ethics Act. Section 3 (a) of the Ethics Act clearly states, "No public official or public employee shall engage in conduct that constitutes a conflict of interest." Conflict of interest is defined as, "Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated."

Areas which could present a conflict of interest for district officials are addressed in the following paragraphs.

1.) A district entering into a contract with a district director, a member of a director's immediate family, or a business with which he or she is associated

The Ethics Act does not in itself prohibit participation by district directors or their immediate family in programs administered by the conservation district but does spell out several requirements that must be met to assure conformance with the Act and the individual's continued participation on the district board. Therefore, in case a district director or his immediate family (clearly defined as "a parent, spouse, child, brother or sister") will be the recipient of a district grant or contract valued at \$500 or more, the following requirements must be met:

- a. There must be public notice of the district's intent to let a contract and the procedures necessary for a person or business to participate in the bidding process;
- b. There must be public disclosure of proposals considered;
- c. There must be public disclosure of all contracts awarded;

d. The director must publicly announce and disclose the nature of his or her interest in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken; and

e. The director must abstain from voting on the issue.

2.) A District Employing a Member of a Director's Immediate Family

The Ethics Act does not prohibit public officials or their immediate families from participating in district programs; however, if it is possible that a district might consider employing a member of a director's immediate family, the director should not:

a) Play any role in establishing the criteria or conditions for any program the employee is responsible for;

b) Play any role in establishing criteria by which personnel selections will be made;

c) Play any role in the process of selecting and reviewing applicants for conservation district staff positions;

d) Make use of any confidential information acquired during the holding of public office to his or her benefit in the process of selecting personnel.

In this regard, a district director would be required to abstain from all discussions, votes or recommendations wherein his vote or recommendations would work in his benefit and also abstain from all discussions, votes or recommendations wherein his actions would negatively affect another individual's application.

3.) The Need to File a Statement of Financial Interests

Section 4 (a) requires each public official or public employee to file a statement of financial interests for the preceding calendar year with the agency or body to which he is appointed or by which he is employed no later than May 1 of each year and one year after he leaves the position. No public official shall be allowed to take the oath or office or begin or continue his duties unless he has filed a statement of financial interests as required by this act.

Therefore, district directors should accurately complete the statement of interests, supplying all the information requested on the prescribed form. The statement of financial interests shall be retained in the district office.

4.) Acceptance of Gifts

No public official shall solicit or accept, or offer to give, anything of monetary value, including a gift, loan, reward, or promise of future employment based on any understanding that the public official might vote or take any action that could be influenced or appear to be influenced by the donation of or acceptance or solicitation of a gift.

The State Conservation Commission addressed the issue of soliciting or accepting gifts or donations in its Policy for Matters Requiring Approval by the State Conservation Commission. This policy is highlighted in part VII.

5.) Conflicts with Other Laws

If the provisions of the Ethics Act conflict with any other statute, ordinance, regulation or rule, the provisions of the Ethics Act shall prevail.

6.) Penalties

Any person who violates the provisions relating to the giving, soliciting, or acceptance of items of monetary value is guilty of a felony and subject to a fine and/or imprisonment.

Any person who violates the provisions relating to employing a member of the immediate family, entering into contracts, or the completion of the statement of financial interest is guilty of a misdemeanor and shall be subject to a fine and/or imprisonment.

Any person who obtains financial gain from violating any provisions of this act, in addition to any other penalty provided by law, shall pay a sum of money equal to three times the amount of financial gain resulting from such violation. Treble damages shall not be assessed against a person who acted in good faith reliance on the advice of legal counsel.

7.) State Conservation Commission Policy of Conservation District Programs

On January 12, 1989, the State Conservation Commission approved a Policy for Matters Requiring Approval by the State Conservation Commission. Portions of this policy have conflict of interest implications for conservation districts, conservation district directors, and the staff of conservation districts. This policy requires State Conservation Commission approval for contributions made to the district "by an individual or entity whose relationship with the district could pose a conflict of interest, including those responsible for activities which are governed by delegation agreements between DER and conservation districts."

On May 5, 1989, the State Conservation Commission elaborated on this policy by stipulating that a conservation district director could not directly solicit a contribution from a person or entity being regulated by the conservation district and that a third party should be utilized to receive all contributions from a regulated entity.

Since the potential for conservation districts' conflict of interest involves those activities delegated to conservation districts by DER in accordance with Section 11(2) of Act 217, conservation districts should utilize the following criteria regarding solicitation and/or accepting donations. Conservation districts should not accept a gift of donation if:

- a. The donation is from an individual or entity for which the district is currently reviewing an erosion and sediment pollution control plan;

- b. The donation is from an individual or entity the district expects to submit an erosion and sediment pollution control plan for review in the near future.
 - c. The donation is from an individual or entity for which the district is currently inspecting earthmoving activities;
 - d. The donation is from an individual or entity that will be conducting earthmoving activities requiring district inspection in the near future.
 - e. The donation is from an individual or entity for which the district is or in the near future will be conducting any type of review, inspection or enforcement action in response to any authorities delegated to the district by the Department of Environmental Resources.
2. Districts must recognize that the possibility for a conflict of interest occurring in the future is always present; nevertheless, conservation districts may accept gifts or donations from individuals or entities if none of the above noted criteria pertains.
 3. Gifts of time and materials should be considered as cash donations and the same criteria should apply.
 4. Gifts or donations may be accepted even if there is a present or potential conflict of interest as noted in #1 above if the donations are solicited and accepted by a third party and the conservation district has no knowledge of the gift or its monetary value.
 5. As required by action of the State Conservation Commission, all contributions having potential for conflict of interest must be brought to the attention of the State Conservation Commission.

(This guidance document has been developed for the State Conservation Commission and conservation districts and should not be construed to be a legal document. Any questions regarding the legality of specific actions should be referred to the district's solicitor or DER legal staff for review.)

VI. State Conservation Commission Conservation District Communications Policy

– (Adopted July 18, 2001)

The State Conservation Commission is charged under the Conservation District Law (Act 217 – 45) with the legal oversight of Pennsylvania's 66 county conservation districts. The Commission has a unique responsibility to provide oversight, guidance and services to conservation district directors and staff. The Commission is committed to providing conservation district directors and staff access to information in a manner that is cooperative and timely, including information prepared for review or consideration at its regularly scheduled business meetings.

In this regard, the Commission establishes the following policy in regards to the dissemination of information to conservation districts that is prepared for review and/or consideration by the Commission at its regularly scheduled business meetings.

1. The Commission will continue to provide conservation districts copies of proposed conservation district agreements and documents or policies that it is considering for final adoption. This includes documents that the Commission generates, which in some manner affect conservation district programs or operations. These documents may include items such as proposed delegation agreements, program contracts, administrative manuals for conservation district delegated or contracted programs, and Commission policies that regulate the administration or management of conservation district activities. The Commission will provide a minimum of 45 days for conservation districts to review these documents and allow written comments to be submitted prior to the Commission's final consideration of or action on the document.

2. In regards to providing information to conservation districts pertaining to tentative agenda items for regularly scheduled Commission business meetings, the Commission will provide the information listed below in the following manner.

a. The Commission will post the tentative meeting agenda on the Commission's web site one week in advance of all regularly scheduled meetings.

b. One week in advance of all regularly scheduled meetings, the Commission will post pertinent background information for each agenda item that has been provided to Commission members, provided that the material is readily available to the Commission in electronic format and provided the information is not considered confidential or restricted information (i.e. information concerning ongoing investigations, matter pertaining to legal proceedings, personnel matters, etc.). The Commission will not release any information concerning tentative agenda items that have not received final sign-off by the agency (PDA, DEP, etc.) administrator responsible for the oversight or management of the program to which the agenda item pertains.

c. When conditions or circumstances prohibit the Commission from posting tentative agendas or related information on its web site for regularly scheduled meetings, the Commission will attempt to provide this information to conservation districts through email.

d. The Commission will also continue its practice of providing paper copies of pertinent background materials for agenda items to those individuals that attend regularly scheduled Commission meetings.

VII. Policy for Approving Cooperating Organizations

Background

Both the Conservation District Law (Act of May 15, 1945, P.L. 217 as amended April 30, 1986, Act No. 39) and the State Conservation Commission Program (25 PA Code Ch. 83) contain language referring to a "Cooperating Organization." Recently, an inquiry was made to become a "Cooperating Organization" of the State Conservation Commission. There does not exist any policy, guidelines, or procedure of the State Conservation Commission to approve cooperating organizations.

Language in Conservation District Law:

Language referring to “Cooperating Organization” appear in several places.

Section 3. Definitions (j) defines “Cooperating Organization” as any organization approved by the commission to assist in carrying out the vision of this act.

Section 4. State Conservation Commission 5) (c) authorizes the Commission to “apportion among the several districts or to any agency of the Commonwealth, the United State, or cooperating organizations any funds allotted from State, Federal, or other sources; and,

Section 4. State Conservation Commission (6) gives the commission the power to receive funds as appropriated, given, granted or donated and allocate such funds, or parts thereof, “To the conservation districts or to any agency of the Commonwealth, the United States, or cooperating organizations.”

Language contained in the Chesapeake Bay non-point Source Pollution Abatement Statement of Policy:

Reference to “cooperating organizations” occurs in several places of the statement of policy:

Under 83.102 Definitions, “cooperating organization” is defined as “an organization approved by the Commission to assist in implementing the act.”

Under the Planning Assistance Funding Program, Section 83.111 (d), General requirements, it states, “Funding may be made available to districts, agencies and cooperating organizations eligible to participate in this program.”

Under the Educational Assistance Funding Program, Section 83.121 (d), General requirements, it states, “Funding may be made available to districts, agencies, and cooperating organizations.”

Under the Technical Assistance Funding Program, Section 83.131 (g), General requirements, it states, “Technical personnel funded to agencies and cooperating organizations other than districts shall be the employees of those agencies and cooperating organizations.”

Criteria for Eligibility

Organizations must have regional or statewide significance, be located within Pennsylvania and one of its purposes shall be to promote or provide for the conservation of the soil, water, and related resources of this Commonwealth.

Proposed Guidelines for Accepting (Approval) Cooperating Organizations

1. An organization desiring approval as a cooperating organization makes a written request to the State Conservation Commission to become an approved “cooperating organization” of the Commission.

2. Request must be received at least four weeks prior to the next scheduled Commission meeting. Requests received within four weeks of a scheduled Commission meeting may be included on the agenda of a later Commission meeting.
3. Commission staff will research the background of the organization and any positive or negative impacts of approval will be reported at the Commission meeting.
4. Commission action regarding approval of the applicant will be reported to the applicant within 30 days.
5. A “cooperating organization” can be removed from the approved list of “Cooperating Organizations” by action of the State Conservation Commission or by mutual consent of both parties.

VIII. Procedures for Nominating Conservation District Directors

The Conservation District Law states that each conservation district board of directors shall consist of one member of the county governing body, not more than four or less than two farmer members, and not less than two or more than four public members. The farmer and public members to be appointed shall be selected from a list containing **at least double the number of directors to be appointed**, and such list is to be submitted by each of the countywide organizations designated by the State Conservation Commission

Definitions:

Farmer Director - An individual who is actively engaged in production agriculture and derives a major portion of his/her income from the sale of farm commodities, including forestry and nursery products. The spouse of a farmer and a retired farmer who previously met the qualifications of a farmer director shall also qualify.

Public Director - Any individual who does not qualify as a farmer director.

County Commissioner Director- A county commissioner or member of the county council.

County Board- The board of county commissioners or the governing body of any county within the Commonwealth.

Approved Nominating Organization - Any organization approved by the State Conservation Commission for the purpose of nominating district directors.

Procedures:

1. By September 15th of each year, the State Conservation Commission shall notify the chief clerk of the county board (i.e. county commissioners or county council) for each county of any additions or deletions to the list of approved nominating organizations for that county. (Nominating organizations shall be added to or deleted from the list only in accordance with procedures established by the State Conservation Commission.)
2. The county board, having updated its list of approved nominating organizations in accordance with notification from the State Conservation Commission, shall notify each nominating

organization of the names of the district directors whose terms are expiring and if the terms are for farmer directors or public directors.

3. Each nominating organization may, within the time limits prescribed by the county board, nominate two individuals to serve as conservation district director for each vacancy on the conservation district's board of directors. The nominations are to be submitted in writing to the county board by a qualified officer of the organization. (NOTE: District Directors eligible for reappointment to the Board must be nominated by an approved nominating organization.)
4. The county board shall place all nominations received on separate lists maintained for both farmer and public directors. The final lists of nominations shall be open for public inspection.
5. After the close of the designated nomination period, the county board shall make tentative selections for appointments to fill all vacant or unexpired terms on the district's board of directors and shall notify the State Conservation Commission of their selections by December 1st using the "Conservation District Director Nomination Procedures Checklist and Appointment Submissions Form." A copy of the form should also be sent to the Field Representative who services the county's conservation district.
6. The State Conservation Commission will make random investigations of director appointments to ascertain their qualifications.
7. If, within 15 days after notifying the State Conservation Commission of their appointments, the county board does not receive notification that a prospective director does not qualify, the appointments shall become final.
8. The county board shall notify the conservation district and the newly appointed directors, as well as the nominated directors who were not appointed, once the appointments become final and are confirmed.
9. At the first conservation district board of director meeting following appointment, the new directors shall be administered an oath of office.
10. Directors wishing to terminate their services as director before the end of their appointed term shall submit written notice to the county board and continue to serve until the appointment of their successor becomes final.
11. Unexpired terms of directors shall be filled by appointments made using the above-prescribed procedures.

NOTE: Individuals appointed to replace directors unable to complete a full four-year term should be appointed to complete the remaining portion of the unexpired term, not a new four-year term.

12. The county board may make appointments to fill unexpired terms from the farmer director and public director lists at any time as long as the lists are no more than 12 months old and the lists contain at least two nominees for each vacancy to be filled.

Appendix:

- A. Director Nomination Checklist**
- B. Director Appointment Submission Form**
- C. Sample Letter to Solicit Nominations for Directors**
- D. Director Position Description**
- E. Nominee Questionnaire Form**
- F. News Release**
- G. Things to Consider**
- H. Oath of Office for Director**
- I. Application to Change the Number of Directors on a District Board**

IX. Procedures for a County Organization to Become Approved as a Nominating Organization for the Purpose of Nominating Conservation District Directors –

(Revisions adopted on March 30, 1995)

Definitions:

Organization: A group of individuals either formally or informally bound together for some community betterment purpose

District: A county conservation district

Commission: The State Conservation Commission

Nominating Organization: Any organization approved by the State Conservation Commission for the purpose of nominating conservation district directors.

Procedures:

1. Any organization desiring to be designated as a nominating organization shall, after taking proper action on their wishes, complete the Commission’s “Petition to be Designated a Nominating Organization” and forward it to the involved conservation district.
2. The conservation district board shall consider the organization’s petition, make a formal recommendation, and forward the petition and a recommended action to the Commission.
3. The Executive Secretary or staff designated by the Commission will review petitions according to the Commission’s criteria. Requests for exemptions from Commission policy will be brought to the attention of the Commission. The petition will be considered by the Commission at its first meeting following receipt of the petition. The Commission shall inform the petitioning organization and the involved conservation district of its action within 30 days following the Commission meeting.
4. All organizations approved by the Commission will be reported to the county governing body of the involved counties, and periodic reports will be prepared and maintained by the Commission.

Criteria for Approval:

An organization is eligible for approval as a “nominating organization” if either of the following criteria is met:

1. The organization is countywide by title or nature.
2. The organization represents the interests of a designated region and at least 30% of the organization’s membership resides within the county. In the case of a multi-county organizations, the Commission shall have the authority to approve, with adequate justification, an organization that does not meet this criteria, if the district so requests.

Note: If there are several similar organization units within a county (such as subordinate granges, firemen’s associations, etc.) and a county organization exists, then only the county organization is eligible for approval as a nominating organization. An individual unit of an organization is not eligible to be approved as a nominating organization whether or not a county organization exists.

Appendix:

I. Petition to be Designated as a Nominating Organization

X. Procedures for Removing a Nominating Organization from the List of Organizations Approved by the State Conservation Commission – (Adopted January 7, 1972, Revised July 26, 2000)

In accordance with Section 4(5) of The Conservation District Law, one of the powers and duties conferred upon the State Conservation Commission is “to designate the organizations within the county that may act in nominating persons for appointment as directors.” As such, the State Conservation Commission is also responsible for removing organizations from the list of designated nominating organizations.

In the event that it appears that a nominating organization should be removed from the list of designated organizations, the following procedures shall be used:

1. The county’s chief clerk shall notify the local conservation district and the State Conservation Commission that a designated organization is defunct, does not want to continue as a nominating organization, or no longer qualifies as a nominating organization.
2. The conservation district shall consider the information provided by the chief clerk and, by motion at a regularly scheduled board of directors meeting, recommend to the State Conservation Commission that the organization shall be deleted from or remain on the approved list. The conservation district shall then transmit its recommendation to the State Conservation Commission.
3. The Executive Secretary or staff designated by the Commission will review and approve requests submitted according to the Commission’s criteria established in 1. and 2. above. The Executive Secretary will notify the Commission of each action taken at the next meeting of the

Commission. Requests for deletion of nominating organizations that are not consistent with the policy established above will be brought to the attention of the Commission. The petition will be considered by the Commission at its first meeting following receipt of the petition. The Commission shall inform the county governing body and the involved conservation district of its action within 30 days following the Commission meeting.

4. The State Conservation Commission will adjust its official records accordingly.

XI. Procedures for Changing the Number of Directors on a Conservation District Board

Legal Requirements

The Conservation District Law states that when a county has been declared a conservation district, a board of directors, consisting of seven members, shall be appointed by the county governing body. This board of directors shall consist of one member of the county governing body, not more than four or less than two farmer members, and not less than two or more than four public members.

The total number of conservation district directors shall always be seven unless the State Conservation Commission, upon request of the conservation district and the county governing body, approves a lesser or greater number in unusual or extenuating circumstances. In no case, shall the number of district directors be less than five or more than nine. No change in the composition of a conservation district board shall take place without official action of the State Conservation Commission. Procedures established and approved by the State Conservation Commission must always be followed when filling any terms for conservation district director.

Procedures

Should a conservation district and its county governing body desire to increase or decrease its number of district directors, the following procedures shall be followed:

1. The conservation district shall recommend to the county governing body that the number of directors on the conservation district board be changed.
2. The form entitled "Application to Change the Number of Directors on the Conservation District Board" shall be completed and signed by the conservation district and the county governing body. The application shall be forwarded to the State Conservation Commission at least 30 days prior to the next scheduled Commission meeting.
3. The State Conservation Commission's staff shall investigate the request and make recommendations for State Conservation Commission action. Action on the request shall be taken at the next scheduled meeting of the State Conservation Commission.
4. The Commission's staff shall inform the county governing body and the conservation district of the Commission's action regarding the application within 15 days of the Commission meeting.

Policy

When the conservation district board is being increased or decreased by one director, the application shall specify whether the directorship in question shall be public or farmer. When the board is being increased or decreased by two directors, the increase or decrease shall be one farmer directorship and one public directorship unless the application for change adequately justifies another composition.

Approved decreases in the number of directors on a conservation district board shall take place when the first farmer and/or public vacancy occurs.

Approved increases in the number of directors on a conservation district board shall be effective on January 1 of the following year. The names of the additional conservation district directors shall be reported to the State Conservation Commission on December 1 when the other district director appointments are submitted for approval.

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Annex

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subchapter C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 83. STATE CONSERVATION COMMISSION

Subchapter B. CONSERVATION DISTRICT FUND ALLOCATION PROGRAM--STATEMENT OF POLICY

GENERAL PROVISIONS

§ 83.31. Purpose.

(a) The act provides for the General Assembly of the Commonwealth, State and Federal Agencies, Commissions and other public and private entities to appropriate moneys into a special fund known as the Conservation District Fund for allocation to local conservation districts. Funds allocated to conservation districts from this fund shall be used for activities necessary to meet the requirements of the act and costs associated with implementing programs delegated, contracted or approved by the Commission.

(b) It is the intention of the Commission to provide conservation districts with funds to be used for the employment of conservation district managers for the districts, to provide administrative funding assistance to districts, to finance Commission mandated or authorized activities, and to provide financial assistance for technical staff and programs of districts under the act, if the district complies with the terms and conditions of this chapter.

(c) The Commission will annually allocate the available funding to one or more of the program elements identified in this subchapter and if funds are available, provide an allocation of non-specific program element funds to districts for use under this subchapter. The Commission will provide for the fair and equitable distribution of the funds to districts. Total funding available for allocation to one or more of the program elements will be determined by the Commission in consultation with the PDA, the Department and other funding sources on an annual basis as funding is available.

(1) The Commission may provide an allocation of non-specific program element funds to a district and allow the district the flexibility to designate its use for any program element provided for under this subchapter, including reserve accounts established consistent with this subchapter. These non-specific

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program element funds will be paid in accordance with the program element as allocated by the district.

(2) The Commission will have the authority to reallocate district funding based on actual and anticipated district costs.

(3) The Commission will provide advanced payments for conservation districts consistent with the authority of the act and this subchapter.

(d) Funds allocated to districts under this subchapter will be utilized solely for employing conservation district managers, conservation district management staff, conservation district technicians and engineers and to finance administrative expenses related to program elements and special project expenses of this subchapter approved by the Commission.

(e) The following program elements may be funded under the Conservation District Fund Allocation Program:

(1) *Conservation District Management Cost Share Program.* The purpose of the Conservation District Management Cost Share Program is to provide cost share assistance to conservation districts for their employment of a conservation district manager or other management staff to provide overall administration of the district's programs.

(2) *Administrative Assistance Funding Program.* The purpose of the Administrative Assistance Funding Program is to provide financial assistance for administrative purposes to conservation districts. The funds shall be used to help defray district administrative expenses related to actions required or authorized by the act or an action of the Commission and enhance the conservation district's ability to provide administrative support to other program areas where the conservation district has accepted administrative responsibilities. Activities include general administrative support for conservation districts programs, activities for the administration of the Agricultural Conservation Easement Conservation District Administrative Support Program and administrative support of other programs supported by other funding sources and approved by the Commission.

(3) *Technical Assistance Cost Share Program.* The purpose of the Technical Assistance Cost Share Program is to provide cost share assistance to districts for their employment of technical staff to carry out district functions that require specialized training or abilities. Funding under this program shall be utilized to support positions at conservation districts employed to carry out responsibilities under the Erosion and Sediment Control Program; the National Pollutant Discharge Elimination System Permitting Program; and the Agricultural Conservation Technical Assistance Program. Funding may also be utilized for other technical related program and staff positions determined necessary and approved by the Commission.

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(4) *Special Project Funding Program.* The purpose of the Special Projects Funding Program is to provide State, Federal or private funds to districts or cooperating organizations in return for proper execution of special programs or projects approved by the Commission.

(5) *Others.* Other programs or projects as approved by the Commission

§ 83.32. Definitions.

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

Act--The Conservation District Law (3 P. S. §§ 849--864).

Agricultural Area Security Law (3 P. S. §§ 901--915)--This act creates a State agricultural conservation easement purchase program for the purchase of conservation easements on eligible farms administered by the PDA and local county farmland preservation boards assisted by county conservation districts.

Agricultural Conservation Easement Conservation District Administrative Support Program -- This program provides funds for certain administrative, technical and other expenses incurred by county conservation districts to support the activities of the county agricultural land preservation board. These funds are provided to help accelerate the purchase of Agricultural Conservation Easements and fulfill the goals of Pennsylvania's Agricultural Conservation Easement Purchase Program.

Agricultural Conservation Technical Assistance Program--A cost share program to support the employment and training of agricultural conservation technicians and engineers serving as a resource and technical advisor providing increased levels of direct technical services and assistance to production agriculture cooperators and other landowners. Technical assistance and services may include assessing natural resource problems and developing, updating or implementing conservation plans and other natural resource plans such as nutrient management, integrated pest management and pasture, crop and forest management plans for delegated or other technical assistance activities of a program assumed by the conservation district. Training opportunities include, but are not limited to, the Agricultural Technical Boot Camp Training Program.

Associate director--A person appointed by the conservation district board consistent with section 6(2) of the act (3 P. S. § 854(2)).

Commission--The State Conservation Commission created by the act.

Conservation district manager--A person employed by the district to perform those duties determined by the district, if those duties comply with this subchapter.

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Conservation district management staff--A person employed by the district other than the conservation district manager to perform those duties determined by the district as providing overall administration of district programs that comply with this subchapter.

Conservation district technician and professional engineer--A person employed by the district to perform those technical or educational duties determined by the district or the Commission that are of a specialized nature and require a specific educational background or specialized training.

Cooperating organization--An organization approved by the Commission to assist in carrying out the act.

Department--The Pennsylvania Department of Environmental Protection.

Directors or Board of Directors--The governing body of a conservation district appointed under the provisions of the act

District--A conservation district as defined in the act.

Erosion and Sediment Control Program--A State program to help provide for the conservation of soil, water and related resources and for the control and to minimize the potential for accelerated soil erosion and the management of post construction stormwater established under the erosion control rules and regulations in Chapter 102 (relating to erosion and sediment control) adopted under the authority of The Clean Streams Law (35 P. S. §§ 691.1--691.1001).

Fiscal year--The State fiscal year being July 1 through June 30.

National Pollutant Discharge Elimination System Permitting Program-- The National system for the issuance of permits under section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342) including a state or interstate program which has been approved in whole or in part by the EPA, including the regulations codified in Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance), Chapter 102 (relating to erosion and sediment control) and as specified in other Department rules and regulations.

Non-Specific Program Element Funds – Funds allocated to the district by the Commission that give the district flexibility to allocate these additional funds to any or all program elements in this subchapter.

PDA--Pennsylvania Department of Agriculture--The Pennsylvania Department of Agriculture

Special project--A specific program or planned undertaking approved by the Commission.

§ 83.33. Eligible expenses.

(a) The Commission will determine the nature, extent and eligibility of expenses to be funded.

(b) When the Commission funds a staff position under this subchapter, the total cost of employment for those staff positions shall include salary and salary-related expenses provided by the conservation district, such as Social Security, workers' compensation, unemployment compensation, liability insurance, disability insurance, medical/life insurance, Medicare, hospitalization, dental plan, vision plan, other health plans, retirement, professional fees, separation costs and other expenses the Commission determines to be appropriate. The following are not salary-related expenses: travel, lodging, vehicle insurance and office rent.

(c) When the Commission provides funds to a district for the purpose of supporting general administrative activities of the district and fulfilling requirements of the act and this subchapter, eligible costs include the following if not reimbursed by another program or funding source:

(1) Director, associate director and staff travel expenses, including mileage, meals and lodging, to district meetings or other official business of the district.

(2) Publishing the annual report

(3) Postage, telephone charges, telephone equipment, computer equipment, fax machines and other communication and technology equipment.

(4) Expenses related to keeping full and accurate district records as determined by the Commission.

(5) Office rent and mortgage payments

(6) Bonding, liability insurance, errors and omissions insurance, vehicle insurance, legal fees, and audit fees.

(d) When the Commission, agency or other funding source provides funding to a conservation district for a program approved by the Commission, the agency or other funding source shall define program activities and acceptable expenses through a delegation agreement, other program agreement or criteria established within the specific guidelines of the funding source.

(e) Other eligible expenses as determined by the Commission.

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(f) When non-specific program funding is allocated to a district, the district may place a portion of the funds into a dedicated “reserve account” under the Administrative Assistance Funding Program to be used as follows.

(1) Reserve accounts shall be established for specific defined purposes, such as: non-reoccurring employment related expenses (i.e. separation costs, leave payout); capital improvement expenses; major equipment replacement expenses (i.e. vehicles, no-till equipment, HVAC systems, copiers); cash-flow related expenses; education scholarship program obligations or any other purposes approved by the Commission.

(2) The District Board shall develop and adopt a written description of the reserve account that includes its specific purpose, reasonable rules governing its use, specific limits on the account’s size and details on its replenishment.

(3) All district reserve accounts established using funds provided under this subchapter must be approved by the Commission prior to their establishment or if at any time the district desires to change the purpose of the reserve account.

(4) All reserve accounts shall be included as a part of the district’s annual audit and year ending financial statement. Both the audit and year ending financial statement shall include all funds held or controlled by the district.

(g) Salary and salary-related expenses for specific programs delegated or contracted to the district by the Commonwealth will be eligible expenses when the Commission specifically approves payment.

§ 83.34. Application procedures.

(a) An application for funding, in a format approved by the Commission, shall be completed by the district for any staff position, project or activity authorized by the Commission and this subchapter.

(b) The application for funding shall be approved by the Board of Directors and signed by the chairperson or a designee and submitted to the Commission within the time frames established by the Commission.

(c) When an application for funding is submitted for a staff position, a copy of the job description for each staff position shall be included in each application for funding.

(d) When multicounty proposals for staff positions or programs authorized by the Commission or this subchapter are the most feasible and cost-effective manner for delivering program objectives or services, the Commission may authorize two or more conservation districts to apply for funding. Applications must include letters of intent from all cooperating districts, signed by the chairperson or a designee of that cooperating district, indicating that each cooperating conservation district board took official action to support the proposed application and the date of that action.

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(e) In prioritizing and selecting applications to be funded under the Technical Assistance Cost Share Program element, the Commission may consider the district's application consistency with goals and other relevant information established in program guidelines.

(f) Upon Commission approval of an application, the district will be notified of the amount available for funding.

§ 83.35. Procedures for allocating funds

(a) The district shall submit documentation of the eligible staff position's salary and salary-related costs for the actual and anticipated calendar periods on forms approved by the Commission.

(b) The State or Federal government may provide funds to the district for activities devoted to a program of the State or Federal government in addition to the funding provided by the Commission through this program. A district may not receive State or Federal funds, the combination of which exceeds 100% of the cost of administering a program.

(c) If extenuating circumstances regarding the allocation warrant special consideration, the Commission will have the discretion to adjust the allocation provided to a particular district.

(d) Funds provided will be available on a fiscal year basis for costs incurred for the positions at the beginning of the fiscal year or from the time the district fills the position during that fiscal year.

(e) The Commission may exercise its judgment in approving applications for funding and in determining the distribution of these funds.

(f) The Commission may impose restrictions or special conditions upon the issuance of these funds.

(g) The Commission will have sole authority to determine the level of funding that individual conservation districts are eligible to receive under any element of this program.

§ 83.36. Procedures for advance payments.

For purposes of disbursing funds to conservation districts, the Commission may process an advanced payment as follows:

(a) When an application for funding of a staff position has been approved by the Commission, the Commission may advance up to 25% of the approved application amount. Subsequent payment to the district will be made on an "actual cash expended" basis not to exceed approved funding caps for the positions. The district shall request

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reimbursement of the remaining allocation amount on forms approved by the Commission in accordance with §§ 83.37 and 83.38 (relating to reimbursement requirements and procedures; and reporting requirements).

(b) When annual funding for administrative assistance for general conservation district program administration has been approved by the Commission, a district shall receive an initial grant, the amount to be determined by the Commission, if funding is available for the fiscal year and the requirements of § 83.55(a) and (b) (relating to reporting procedures) for administrative assistance are met. Additional administrative funds may be granted to districts if they become available, provided the requirements of § 83.55(a) and (b) are met.

(c) When annual funding for administrative assistance for other program elements under this subchapter include eligible expenses for both staff positions and administrative activities and have been approved by the Commission, the Commission may advance funding consistent with paragraphs (a) and (b) up to caps that may be established by the Commission.

(d) Upon receipt of advance payment funds, the district shall promptly deposit these funds in an interest bearing account in a bank or other financial institution insured by the FDIC, FSLIC or equivalent insurer. The advance payment funds and any interest earned thereon shall be expended by the district to fulfill the objectives of the approved program element for which the advance payment was received.

(e) For each program element when advance payment funds are received, the district shall keep a separate accounting of the advance payments and the interest earned thereon.

§ 83.37. Reimbursement requirements and procedures.

(a) The following reports and documents shall be provided to the Commission or its designee on or before the dates listed. Other reports required by the Commission and this subchapter shall be provided on or before dates established by the Commission.

Report/Document	Due Date
Team Sheets	January 31
Annual Report	March 31
Budget (current calendar year)	March 31
Financial Statement (previous calendar year)	March 31
Financial Audit Report (previous calendar year)	December 31
Quarterly Reports (program elements and special projects)	January 15, April 15, July 15, October 15

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(b) The Commission or its designee may not process a district's claim for reimbursement until that district's required reports and documents related to a Conservation District Fund Allocation Program element or an approved special project are received by the Commission.

(c) Final payment for activities conducted under program elements or approved special projects under this subchapter will not be provided to a district until all program elements or special project activities have been completed as described in the program guidelines or the special project work plan and the required reports have been submitted to the Commission in a manner consistent with § 83.38 (relating to reporting requirements).

(d) When a conservation district receives funding under this subchapter and is unable to meet a reporting deadline as noted in subsection (a), the conservation district may request an extension to that deadline as outlined in Commission policy.

(e) Funding claims will be reviewed and forwarded by the Commission or its designee to the comptroller for payment within 15 working days after an acceptable claim and the required reports are received in the Commission or designee's office.

§ 83.38. Reporting requirements.

(a) A district having staff positions or special projects approved for funding by the Commission shall file quarterly claims indicating applicable cost of employment or costs of the special project for the period.

(b) Claims shall be filed no later than 15 days after the close of the quarter. Quarters end on September 30, December 31, March 31 and June 30.

(c) At the same time, the district shall submit a quarterly report of activities for the program element or special project.

(1) Quarterly reports for cost share program elements must include a report of activities and accomplishments that have resulted from the employment of the conservation district manager, technician or engineers or the monthly board meeting minutes for the quarter if they include activities and accomplishments of the conservation district manager, technicians or engineers.

(2) Quarterly reports for special projects must include a report indicating the status of the project or accomplishments consistent with the project work plan.

(d) When available, the district shall use the Conservation District E-commerce System for submission of forms and reports required by the Commission or delegated and contracted programs to the greatest extent possible.

(e) If a position is employed by more than one district, the host district shall maintain records and file reports for the position.

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(f) Quarterly claims and activity reports shall be submitted in a manner and on forms approved by the Commission.

§ 83.39. Record retention requirements.

(a) The district shall maintain in its file a record of the activities of all positions (district manager, technicians and professional engineers) and special projects funded under this subchapter.

(b) A conservation district receiving funds under any program element under this subchapter shall maintain in accordance with generally accepted accounting principles the books, records, receipts, financial statements and other documents pertaining to any program element or special project under this program. These records shall be retained a minimum of 3 years, commencing at the end of the fiscal year of funding. The records shall be made available to the Commission, PDA and the Department or their agents upon request.

CONSERVATION DISTRICT MANAGEMENT COST SHARE PROGRAM

§ 83.41. General requirements.

(a) This program is known as the Conservation District Management Cost Share Program.

(b) The conservation district manager or other management staff position shall be the employee of the district and not the employee of the Commonwealth. A person serving as a conservation district manager or in another management staff position may not serve in a clerical capacity with the district unless the Commission gives special approval.

(c) The Commission will cost share no more than 50% of the total cost of employment for a conservation district manager or other management position(s) even when employed by more than one district. Cost share provided for a conservation district manager or other management positions shall be a combined total of an annual allocation set by the Commission and any portion of non-specific program element funds allocated to the district.

(d) One or more conservation district management staff positions per district may be cost shared if adequate funds are available.

(e) The Commission will have the authority to adjust the conservation district management annual cost share for unforeseen circumstances.

§ 83.42. Application procedures.

Application for funding for this program element shall be completed in a manner consistent with § 83.34 (relating to application procedures).

§ 83.43. Reporting requirements.

Reporting requirements for this program element shall be completed in a manner consistent with § 83.38 (relating to reporting requirements).

§ 83.44. Reimbursement procedures.

Reimbursement procedures for this program element shall be completed in a manner consistent with § 83.37 (relating to reimbursement requirements and procedures).

§ 83.45. Procedures for allocating funds.

The conservation district management staff position's actual salary and salary-related costs for the new July 1 through December 31 calendar period and anticipated salary and salary-related costs for the new January 1 through June 30 calendar period shall be the basis for computing the new fiscal year allocation.

§ 83.46. Record retention requirements.

Record retention requirements for this program element shall be completed in a manner consistent with § 83.39 (relating to record retention requirements).

ADMINISTRATIVE ASSISTANCE FUNDING PROGRAM

§ 83.51. General requirements and eligibility.

- (a) This program is known as the Administrative Assistance Funding Program.
- (b) Funds made available to this program shall be utilized to help defray costs directly related to the following:
 - (1) Administration of general district programs and fulfillment of requirements of the act and this subchapter. Eligible costs are those costs contained in § 83.33(c)-(f) (relating to eligible expenses).
 - (2) Administrative or other expenses approved by the Commission and incurred by conservation districts when the conservation districts have agreed to provide administrative support to the county agricultural land preservation board for duties carried out by the board under the Agricultural Area Security Law. Eligible costs are those costs described in the Agricultural Conservation

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Easement Conservation District Administrative Support Program established in program guidelines and approved by the Commission.

(3) Administrative or other expenses approved by the Commission and incurred by conservation districts when the conservation district accepts administrative responsibility and activities of other county, State or Federal programs. Eligible costs are those costs contained in § 83.33(d).

(c) Funds made available to this program may be utilized to establish reserve account(s) for a specific purpose approved by the Commission. Eligible uses are described in § 83.33(f).

§ 83.52. Procedures for allocating funds.

(a) A district shall annually receive funds in a manner consistent with § 83.35 (relating to procedures for allocating funds), the amount to be determined by the Commission, if funding is available for the fiscal year and the requirements of § 83.55(a) and (b) (relating to reporting procedures) are met.

(b) Additional administrative funds may be granted to districts if they become available, provided the requirements of § 83.55(a) and (b) are met.

(c) Contingent on the availability of funds, the Commission, at its discretion, also has the option to reimburse conservation districts for:

(1) Extraordinary travel and administrative expenses in excess of the initial administrative assistance grant.

(2) Additional eligible expenses for administrative support, or other services to a county, State or Federal program when the conservation district accepts administrative responsibility and program implementation activities.

(3) The Commission may also reimburse a district for the travel expenses of a district director, associate director or staff person to attend a meeting or conference at the request of the Commission.

§ 83.53. Application procedures for reimbursement.

Application for funding shall be completed for this program element in a manner consistent with § 83.34 (relating to application procedures).

§ 83.54. Reimbursement procedures.

(a) When extraordinary travel and administrative expenses in excess of the initial grant are to be reimbursed, a reimbursement claim form shall be submitted by districts to the Commission semiannually indicating costs to be reimbursed for the period. The claims shall be filed no later than 15 days after December 31 and June 30.

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(b) The Commission may reimburse all or a portion of the reimbursable expenses submitted by districts.

(c) Reimbursement claims shall be made by conservation districts, and processed by the Commission, consistent with the reimbursement procedures contained in § 83.37 (relating to reimbursement requirements and procedures).

§ 83.55. Reporting procedures.

(a) Within 15 days following the end of the fiscal year on June 30, each participating district shall file an "Administrative Assistance Program Financial Statement" noting how the general administrative funds were utilized.

(b) A district shall, by December 31, submit a financial audit for the previous calendar year unless an extension of time is requested by the district and approved by the Commission. The standards and guidelines for the financial audit and extension of time request will be established by the Commission.

(c) A conservation district accepting funds for administrative activities of programs other than general conservation district programs or fulfillment of requirements of the act and this subchapter shall provide a quarterly report of activities and accomplishments that have resulted from the expenditure of these funds as required by the Commission or guidelines established for that program.

§ 83.56. Special requirements.

General administrative funds not used for the purposes authorized by the Commission shall be reconciled and deducted from the following year's grant to that district.

TECHNICAL ASSISTANCE COST SHARE PROGRAM

§ 83.61. General requirements.

(a) This program is known as the Technical Assistance Cost Share Program.

(b) The conservation district technician or engineer funded under the Technical Assistance Cost Share Program is the employee of the district and not the employee of the Commonwealth. A person serving as a conservation district technician or professional engineer shall receive general supervision from a district director or an employee of the district designated by the board of directors.

(c) The Commission will pay no more than the established cost share rate of the total cost of employment for the conservation district technician or professional engineer even when employed by more than one district.

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(d) Funds allocated to districts under this program shall be utilized solely for employing conservation district technicians or professional engineers to provide technical assistance and services assumed by the district including, but not limited to, the following:

(1) The Erosion and Sediment Control Program and the National Pollutant Discharge Elimination System Permitting Program as specified in the delegation agreement with the Department.

(i) The maximum Commission cost share allocation for conservation district technicians performing duties under Erosion and Sediment Control Program shall be at the following rates, based on the level of responsibilities:

(A) Level I--35%

(B) Level II--50%

(C) Level III--65%

(D) No Delegation – 0%

(ii) Where the Commission allocates non-specific program element funds to the district, the district may allocate these funds to cost share these positions up to 100%.

(iii) The Commission, as funds are available, has the authority to increase a district technician's cost share allocation up to an additional 10% for each conservation district technician, or professional engineer under the Erosion and Sedimentation Control Program, if any of the following conditions are met. The technician or professional engineer:

(A) has achieved certification as an erosion and sediment control technician, level 2, by the National Institute for Certification in Engineering Technologies.

(B) is certified by the International Erosion Control Association as a Certified Professional in Erosion and Sediment Control.

(C) is a professional engineer with a minimum of 2 years experience in erosion and sediment control and post construction stormwater management.

(D) has achieved other professional certification programs recognized by the Commission.

(2) The Agricultural Conservation Technical Assistance Program established in program guidelines and approved by the Commission.

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(i) Cost share provided for agricultural conservation technicians and professional engineers may be a combination of an annual allocation set by the Commission and non-specific program element funds allocated to the district. These positions may be cost shared up to 100% of the total cost of employment.

(ii) For purposes of the Agricultural Conservation Technical Assistance Program, the balance of funds not defrayed under this subchapter may include State sources, such as those funds provided to districts under the Nutrient Management Act Program, the Chesapeake Bay Programs the Agricultural Conservation Easement Conservation District Administrative Assistance Program, and other State and Federal funds, as approved by the Commission on a case-by-case basis.

(iii) The Commission, as funds are available, has the authority to increase a district technician's cost share allocation up to an additional 10% for each conservation district technician, or professional engineer, if any of the following conditions are met. The technician or professional engineer:

(A) has obtained and maintained certain Natural Resources Conservation Service Engineering Job Approval Ratings.

(B) has professional certifications or specified training as prescribed by the Commission.

(C) is a professional engineer with a minimum of 2 years experience in the design and installation of agricultural conservation best management practices.

(3) Other program areas established in Technical Assistance Cost Share Program elements under this subchapter and approved by the Commission.

(i) Where non-specific program element funds are allocated to the district, other technical staff positions may be cost shared up to 100%. These positions may include: additional erosion and sediment control technician(s), agricultural conservation technicians, forester(s), environmental educators, professional engineers, and watershed specialists.

(4) The Commission may allocate funds for additional technicians or professional engineers to be cost shared per district contingent on the availability of funds.

(i) The maximum Commission cost share rate for additional conservation district erosion and sediment control technicians shall be based on the level of responsibility assumed by the district in the Erosion

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and Sediment Control Program as specified in the delegation agreement with the Department.

(ii) The cost share rates for additional agricultural conservation technicians or professional engineers within a single county will be established at the sole discretion of the Commission.

(iii) The Commission has the authority to reduce the cost share rate for additional conservation district technicians or professional engineers where more than one technician or professional engineer is cost shared in the conservation district.

(5) If an evaluation of the district's performance reveals that the district is not performing to the required program output measures or program goals the Commission has the authority to reduce the allocation or the level of cost share for the technicians, or both.

§ 83.62. Application procedures.

Application for funding for this program element shall be completed in a manner consistent with § 83.34 (relating to application procedures).

§ 83.63. Reporting requirements.

Reporting requirements for this program element shall be completed in a manner consistent with § 83.38 (relating to reporting requirements).

§ 83.64. Procedures for allocating funds.

(a) For Technical Assistance funding, the technician's or professional engineer's actual salary and salary-related costs for the new July 1 through December 31 calendar period and anticipated salary and salary-related costs for the new January 1 through June 30 calendar period shall be the basis for computing the new fiscal year allocation.

(b) The Commission will determine, on the basis of criteria established by the Commission, which technical personnel will receive cost share.

(c) The allocation may be prorated if sufficient funds are not available to provide the desired rate of cost share for the approved technicians or professional engineers.

§ 83.65. Reimbursement procedures.

Reimbursement requirements and procedures for this program element shall be completed in a manner consistent with § 83.37 (relating to reimbursement requirements and procedures).

§ 83.66. (Reserved).

SPECIAL PROJECTS FUNDING PROGRAM

§ 83.71. General requirements.

(a) The Commission may allocate to districts, State, Federal or other funds, as available, to reimburse districts for their costs to carry out special projects approved by the Commission. These projects shall be limited to a reasonable period of time for the accomplishment of project objectives but State funding will not be assured for longer than 1 State fiscal year. Eligible projects will be determined on individual merit by the Commission based on criteria established within the specific guidelines of the funding source.

(b) The Commission may authorize special project grants to any district or cooperating organization for purposes consistent with this subchapter and the act.

§ 83.72. Application procedures.

(a) Districts may apply for available funds. The Commission will establish a deadline for the filing of the applications. Applications must be in writing and be made on forms prescribed, prepared and furnished by the Commission. Applications must set forth the information and be accompanied by the data that is necessary for the Commission to determine the applicant's eligibility to be considered for a special project.

(b) Project proposals shall be submitted to the Commission in a format provided by the Commission that describes the purpose, schedule and scope of activities, expected results, and projected completion dates, required personnel, special services, physical resources and estimated costs for the completion of the project and the district's financial resources to cost share the project.

(c) Applications will be reviewed by the Commission and preliminarily ranked based on guidelines adopted by the Commission. Additional information may be required of districts submitting projects regarding the intent and purpose of the project.

§ 83.73. Procedures for allocating funds.

(a) The Commission will approve the amount of funds available for special projects.

(b) Projects containing objectives that are consistent with the current priorities of the Commission may receive higher priority for funding and may be cost shared at a higher rate.

(c) The Commission will approve special projects for funding. Districts will be notified immediately following approval or denial by the Commission.

(d) It is the goal of the Commission to require a project sponsor to provide a portion of the funding for special projects. The Commission may require the project sponsor to

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provide matching funds or in-kind services, at the Commission's discretion. The Commission is authorized to provide up to 100% cost share for special projects.

(e) Funds may be reallocated at any time in the event a project cannot be completed or is abandoned for any reason.

§ 83.73a. Reporting requirements.

Reporting requirements for this program element shall be completed in a manner consistent with § 83.38(b), (c)(2) and (f) (relating to reporting requirements).

§ 83.74. Reimbursement procedures.

(a) Reimbursement requirement and procedures for this program element shall be completed in a manner consistent with § 83.37(b) and (c) (relating to reimbursement requirements and procedures).

(b) The following administrative expenses of the district are reimbursable under a special project of this subchapter:

(1) District employees' salaries which are not defrayed through this subchapter or other funding sources and are built into the special project scope of work.

(2) Office rental, mortgage payments or other overhead costs which are built into the special project and are not defrayed under this subchapter or other funding sources.

§ 83.75. Special requirements.

After receiving initial approval, districts shall provide additional information required by the Commission.

FORFEITURE AND SPECIAL PROVISIONS

§ 83.81. Forfeiture.

(a) The Commission will reallocate funds previously approved by the Commission for a district, if that district fails to comply with this subchapter and other practices and procedures established by the Commission.

(b) A recipient of Conservation District Funding Allocation Program funds that fails to abide by §§ 83.71--83.82 (relating to special projects funding program), shall be in default. In the event of a default, the Commission may cancel the special project agreement and reallocate the special project funds previously approved by the Commission.

§ 83.82. Special provisions.

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The Commission may delegate authority to the PDA, the Department or other Commonwealth agency staff to act on its behalf.

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