



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF FOOD AND AGRICULTURE

LANCASTER FIELD OFFICE

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JANE SWIFT
Governor

BOB DURAND
Secretary

JONATHAN L. HEALY
Commissioner

AGRICULTURAL LAND MITIGATION POLICY

I. INTRODUCTION & STATEMENT OF POLICY

Article 97 of the Massachusetts Constitution guarantees the right of residents of the Commonwealth to the conservation, development and utilization of agricultural land. Protection of this right is declared to be a public purpose by Article 97. Pursuant to this mandate, therefore, it is the mission of the Executive Office of Environmental Affairs ("EOEA") and the Department of Food and Agriculture (the "Department"), as restated herein, to protect, preserve and enhance agricultural land, and its capacity to benefit and sustain the citizens of the Commonwealth, as a finite natural resource.

This mission has been accomplished, and shall continue to be accomplished, in part, by discouraging the conversion of viable units of agricultural land to non-agricultural uses. Further, by way of its Mitigation Policy, the Department requires that one acre of agricultural land of comparable or greater agricultural viability be permanently protected for future agricultural use, for every acre of agricultural land so converted, in the manner described herein or by use of an alternative mitigative tool described below.

II. POLICY BACKGROUND & IMPLEMENTATION

Agricultural land has become a ready target for non-agricultural development as a result of its adaptability and physical characteristics. Such development is subject to review and certification under the Massachusetts Environmental Policy Act ("MEPA"). In addition, EOEA has designated agricultural land as a critical natural resource. As with other critical natural resources in the Commonwealth (e.g. wetlands, floodplains), a concerted effort has been and shall continue to be made by the Commonwealth to avoid the loss of agricultural land as a result of non-agricultural development. Where avoidance is not possible, Department policy requires mitigation for the loss of agricultural land in the manner described in Section III.

The Commonwealth of Massachusetts for many years has actively promoted the preservation of agricultural land. Through the Agricultural Preservation Restriction ("APR") Program the Commonwealth invests significant funds, on a regular basis, to protect critical farmland resources by purchasing rights in agricultural land.

In addition, Executive Order 193 complements the APR Program as a protective tool through which state agencies are directed to avoid and to mitigate against the conversion of state-owned agricultural lands. In this regard, the Order states the policy that: "State Agency actions shall encourage the protection of state-owned agricultural land by mitigating against the conversion of state-owned land to non-agricultural uses...". The Order further provides, as a separate policy not restricted to state-owned agricultural land, that: "State funds and federal grants administered by the state shall not be used to encourage the conversion of agricultural land to other uses when feasible alternatives are available."

III. MITIGATION OPTIONS

Compensation for the loss of agricultural land resulting from conversion to non-agricultural uses may be accomplished in one or a combination of the following ways, upon consultation with the Department and approval by the Commissioner. A Financial Contribution shall be utilized only in circumstances when On-site and Off-site mitigation are not feasible. The following order of preference shall be followed:

"On-site Mitigation": The permanent protection, through the granting of an APR to the Commonwealth, on any contiguous agricultural land of equal or greater size, soil quality and agricultural viability to the agricultural land being lost to conversion, as determined by the Department and approved by the Commissioner.

"Off-site Mitigation": The permanent protection, through the granting of an APR to the Commonwealth, on a parcel of agricultural land of equal or greater size, soil quality and agricultural viability to the agricultural land being lost to conversion, as determined by the Department and approved by the Commissioner. Where feasible, the permanently protected piece of land shall be located either in the community within which the agricultural land being converted is located or within a contiguous city or town.

"Financial Contribution": For each acre of agricultural land being converted, a contribution of \$10,000.00 per acre shall be made to the Commonwealth's APR Program, or to a qualified nonprofit farmland preservation organization or municipal farmland preservation program for the purpose of assisting the Commonwealth in permanently protecting agricultural land of equal or greater size and agricultural viability to the agricultural land being lost to conversion, as determined by the Department and approved by the Commissioner.

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DEFINITIONS

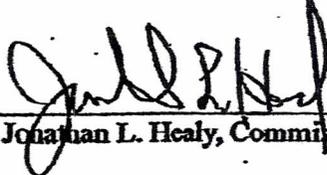
"Agricultural Land": Land comprised of soils which are classified as Prime, Unique, or of State and Local Importance by the USDA Natural Resources Conservation Service, including land currently in active agricultural use, or suitable for active agricultural use, or land which has been in agricultural use within the 15 year time period prior to conversion.

"Agriculture": Agriculture as defined within the Massachusetts General Laws.

"Viable Unit": A parcel of agricultural land that is 5 acres or larger in size, or if fewer than 5 acres, a parcel that significantly contributes to the agricultural character of the community.

For additional information, kindly contact the Massachusetts Department of Food & Agriculture, 142 Old Common Road, Lancaster, MA 01523 (508) 792-7712.

Dated: November 30, 2001


Jonathan L. Healy, Commissioner

COMMONWEALTH OF MASSACHUSETTS

By His Excellency

EDWARD J. KING
Governor

EXECUTIVE ORDER #193

PRESERVATION OF STATE-OWNED AGRICULTURAL LAND

Preamble

Agricultural land in Massachusetts is a finite natural resource that is threatened by competing land use pressure.

The natural resource qualities associated with agricultural land make state-owned agricultural land an irreplaceable economic and environmental asset when utilized for food production. This land is part of the "common wealth" of Massachusetts citizens, and the wise use and conservation of state-owned agricultural land is of broad public value. As the loss of private agricultural land in the Commonwealth continues, the state-owned land will play an increasingly important role for the state's remaining farmers and young people who wish to enter farming. As the state-owned agricultural land decline in productivity and efficient utilization, so does the maximum return of benefit to the citizens of the Commonwealth.

Furthermore, the loss of agricultural land has had a detrimental affect upon environmental quality. Agricultural land reduces flooding by effectively absorbing precipitation, while replenishing critical ground water supplies. The open characteristic and natural vegetation of agricultural land helps purify the air; enhances wildlife habitat; provides for recreation; and maintains the landscape's aesthetic and historic quality. Therefore, it is essential to ensure that the Commonwealth's agricultural land remains available for present and future generations.

WHEREAS, the Commonwealth seeks to preserve the productive agricultural land base on which the Massachusetts agricultural industry and the people of the Commonwealth depend; and

WHEREAS, state acquisition programs administered by the Department of Environmental Affairs, pursuant to G.L.c. 132A, §§11A-11E and G.L.c. 184 §§31-33, promote the preservation of private agricultural land; and

WHEREAS, it is the policy of the Executive Department of the Commonwealth of Massachusetts to protect, through the administration of current programs and laws, the Commonwealth's agricultural land base from irreversible conversion to uses which result in its loss as an essential food production and environmental resource;

NOW, THEREFORE, I, Edward J. King, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution and laws of the Commonwealth, do hereby order and direct all relevant state agencies to seek to mitigate against the conversion of state-owned agricultural land and adopt the policies herewith:

→ Justice

Bialochi:
1. Unilateral
2. Article 97?

1. State funds and federal grants administered by the state shall not be used to encourage the conversion of agricultural land to other uses when feasible alternatives are available.

2. State Agency actions shall encourage the protection of state-owned agricultural land by mitigating against the conversion of state-owned land to non-agricultural uses, and by promoting soil and water conservation practices.

3. The Secretary of Environmental Affairs shall identify state-owned land suitable for agricultural use according to the following criteria:

- a. the presence of soil types capable of supporting or contributing to present or potential commercial agriculture
- b. current and historic use for agriculture, and
- c. absence of non-farm development.

4. State Agencies controlling state-owned land suitable for agricultural use shall coordinate agricultural land management policy with the Executive Office of Environmental Affairs. In managing said land, State Agencies shall be encouraged to allow for use on a multiple year basis for forage and food crops.

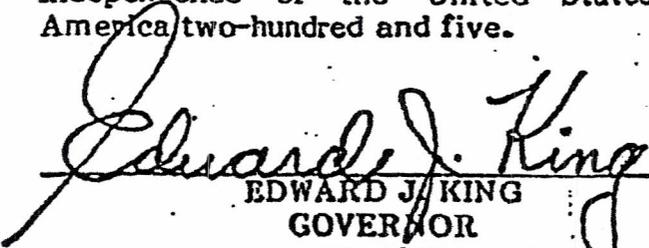
5. Surplus state-owned land, identified as suitable for agriculture by the Secretary of Environmental Affairs, shall remain available for agriculture when compatible with state agency objectives.

6. For purposes of this Executive Order, "agricultural land" shall be defined as land classified Prime, Unique, or of State and Local Importance by the USDA Soil Conservation Service, as well as land characterized by active agricultural use.

7. For the purposes of this Executive Order, "state-owned land" shall be defined as:

- a. all land under the custody or control of a state agency,
- b. all lands purchased in whole or in part with state funds or federal funds administered by the state.

Given at the Executive Chamber in Boston
this 19th day of *March*
in the year of our Lord one thousand nine
hundred and eighty one and of the
Independence of the United States of
America two-hundred and five.


EDWARD J. KING
GOVERNOR
Commonwealth of Massachusetts

Secretary of the Commonwealth