

Next Generation Farmer Loan Program

Program Guidelines | February 2010

> ready > set > succeed





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY

Dear Friend:

To ensure that Pennsylvania's rich agricultural traditions are passed to future generations, the Commonwealth of Pennsylvania has developed the **Next Generation Farmer Loan Program**.

The purpose of this program is to provide an effective means for federal-state-industry partnerships to provide next generation farmers the opportunity to purchase land and other capital intensive assets to begin their agriculture enterprise. This collaborative program has been developed in partnership between the Pennsylvania Department of Agriculture and the Pennsylvania Department of Community and Economic Development.

The program uses federal tax-exempt mortgage financing to reduce a farmer's interest rate for capital purchases. The program may be used between a borrower and lender for a loan to make a direct purchase, or between a buyer and seller for a contract purchase.

The unique partnership between farmers, lenders and county economic development agencies will assist next generation farmers and their families to begin and preserve our farm enterprises. A strong agriculture also provides economic and societal benefits to communities, which enhance the quality of life for everyone.

If you have questions about this program, I encourage you to contact your local Industrial Development Authority and agricultural lender. All financial decisions are made at the community level.

Thank you for your support of Pennsylvania agriculture.

Sincerely,

A handwritten signature in cursive script that reads "Russell C. Redding".

Russell Redding

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Section I – Statement of Purpose

The purpose of the Next Generation Farmer Loan Program is to provide an effective means for federal-state-industry linkages, whereby the public sector can assist beginning and first-time farmers to purchase land, farm equipment, farm buildings and breeding livestock.

The Program uses federal tax-exempt mortgage financing to reduce a farmer's interest rate for capital purchases. The program may be used between a borrower and lender for a loan to make a direct purchase of farm and agricultural machinery and equipment or between a buyer and seller for a contract purchase. The tax-exempt interest income to the lender or contract seller enables them to charge the borrower a lower interest rate, which is exempt from federal, state, and county taxes that would be applicable.

Section II – Frequently Asked Questions

Who is eligible?

Credit Quality – The applicant must meet the lender's credit standards.

Residency – The applicant must be a permanent resident of Pennsylvania when the loan is issued.

Age – The applicant must be at least eighteen (18) years of age when the loan application is submitted.

Capital Requirements – The applicant will be required to document to the satisfaction of the lender that they will have access to adequate working capital, farm equipment and livestock, if appropriate.

Ownership and Active Participation – The owner must be the sole owner and principal user of the project.

Prior Ownership – The applicant must not have had any prior ownership interest in a substantial amount of land. A substantial amount of land is a parcel, which exceeds 30% of the median farm size in the county in which the land is located (Refer to Appendix D for medium farm size).

What can I use the money for?

Agricultural Land – Land located in the Commonwealth of Pennsylvania that is suitable for use in farming and which is or will be operated as a farm.

Agricultural Improvements – Any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land.

Depreciable Property – Property suitable for use in farming such as farm machinery and trucks, for which an income tax deduction for depreciation is allowable.

Purchase from Related Persons – Funds can be used to purchase property from related persons as long as that purchase price is at least equal to the market value of the property and the seller will have no continuing financial interest in it, which means having no direct or indirect ownership and they will not be the principal user of the project.

How does the program work?

The program uses federal tax-exempt mortgage financing to reduce a farmer's interest rate for capital purchases. The program may be used between a borrower and lender for a loan to make a direct purchase of a farm and agricultural machinery and equipment or between a buyer and seller for a contract purchase. The tax-exempt interest income to the lender or contract seller enables them to charge the borrower a lower interest rate, which is exempt from federal, state and county taxes.

Are there fees involved?

Fees associated with the program will vary between lenders and IDA's, and are negotiated independent of the Commonwealth Departments.

How much can be borrowed?

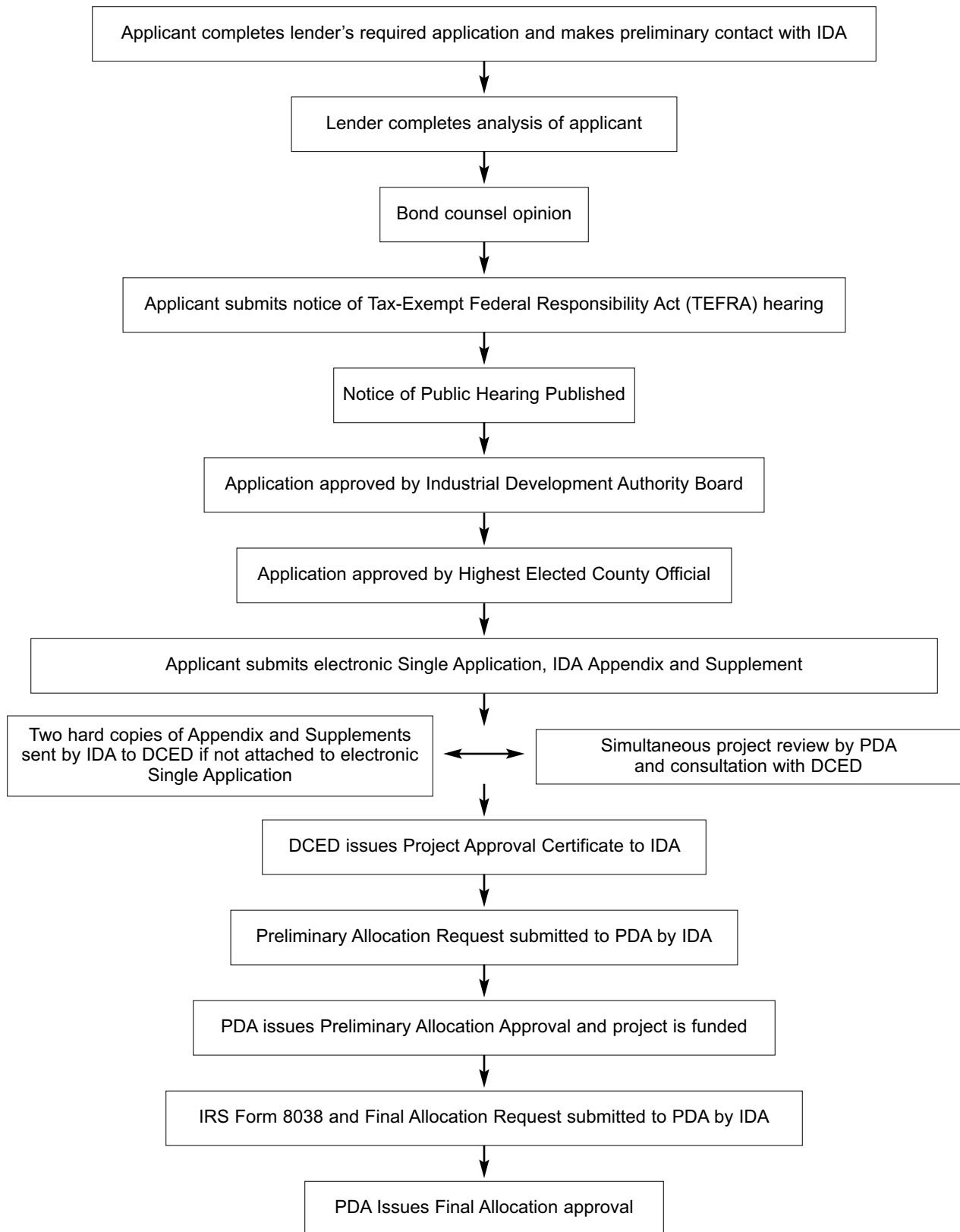
The maximum loan amount is \$470,000 per person; however, the total loan proceeds allocated to the purchase price of used equipment may not exceed \$62,500.

All loan terms and credit decisions are made by the lender and contract seller.

Are there limits on the borrower's net worth?

Yes. To qualify for this Program, a borrower's net worth cannot exceed \$500,000 if filing as an individual or \$1,800,000 as a partnership.

Section III – Flow Chart



THIS PROCESS NORMALLY REQUIRES 60-90 DAYS FOR COMPLETION

Section IV – Eligibility

Beginning and first-time farmers and lenders are encouraged to visit with Industrial Development Authority staff early in the application process to make the entire transaction as simple as possible.

A. Eligible Applicants

Eligible applicants must meet the following criteria:

1. **Credit Quality.** The applicant must work with a lending institution to obtain credit support for the financing and must meet the lender's credit standards.
2. **Residency.** The applicant must be a permanent resident of the Commonwealth of Pennsylvania when the loan is issued.
3. **Age.** The applicant must be at least eighteen (18) years of age when the loan application is submitted.
4. **Capital Requirements.** The applicant will be required to document to the satisfaction of the lender that it has access to adequate cash flow, working capital, farm equipment and livestock, if appropriate.
5. **Ownership and Active Participation.** The applicant must be the sole owner and principal user of the project.
6. **Prior Ownership of Agricultural Land.** The applicant must not have had any prior direct or indirect ownership interest in a substantial amount of land. A substantial amount of land is a parcel, which exceeds 30% of the median farm size in the county in which the land is located. An individual with prior ownership of land may still be eligible if the individual did not participate in the operation of a farm. Refer to Appendix D, which identifies the 30% of median farm size by county.

Ownership or material participation by an individual's spouse or minor child is to be treated as ownership or material participation by an individual.

B. Eligible Purchases

Loan proceeds may be used for the following capital purchases only:

1. **Agricultural Land.** Land located in the Commonwealth of Pennsylvania that is suitable for use in farming and which is or will be operated as a farm (excluding a home or residence on the property, which must be assessed and financed separately from the farm).
2. **Agricultural Improvements.** Any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. The Program can be used to finance the purchase of new improvements on agricultural land. Agricultural improvements can only be financed if:
 - a. the improvements are purchased in conjunction with agricultural land and used in the operation of a farm to be operated on the agricultural land being purchased; and
 - b. a sufficient amount of qualified rehabilitation expenditures are incurred by the borrower with respect to the agricultural improvements within two years from the date of issue of the loan.
3. **Depreciable Agricultural Property.** Personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1986, as amended. Examples include but are not limited to, farm machinery and trucks.

- a. Feeder livestock, seed, feed, fertilizer and other types of inventory or supplies do not qualify as depreciable agricultural property. The Program can be used to finance the purchase of any new depreciable agricultural property, and used depreciable agricultural property if it is purchased in conjunction with agricultural land and used in the operation of a farm to be operated on the agricultural land being purchased. **The total loan proceeds allocated to the purchase price of used equipment may not exceed \$62,500.**
 - b. **No portion of the loan proceeds may be used for the purchase of a residence. The applicant must make a down payment or obtain conventional financing for the value of the residence.**
4. **Purchase From Related Persons.** The Program can be used to purchase property from a related person. The IRS states that the following, among others, are deemed to be “related persons” of an individual: grandfather, grandmother, father, mother, brother, sister, child, grandchild, or spouse. In addition, a partnership and each of its partners (and their spouses and minor children) are related persons, as are an S corporation and each of its shareholders (and their spouses and minor children). A related person also includes certain related corporations and partnerships. The foregoing list is not exclusive. There are certain other entities and individuals that could also be considered related persons. Note that certain individuals are not related persons. For example, an aunt, uncle, nephew, niece, brother-in-law or sister-in-law would not be treated as a related person. If Next Generation Farmer Program loan proceeds are used to purchase property from a related person, the applicant must certify and provide supporting documentation that the purchase price of the property is at least equal to the market value of the project. The applicant must also certify that the seller will have no continuing financial interest in the project, will not be a principal user of the project and will have no other direct or indirect ownership of the project.

C. Maximum Loan Amount

The maximum loan amount is \$470,000 per person. If the borrower has obtained prior financing under this program, the loan amounts when totaled cannot exceed \$470,000. The maximum loan amount will be adjusted annually for inflation.

Section V – Application Process

- A. Farmers who are interested in the Next Generation Farmer Loan Program should contact a local Industrial Development Authority (IDA). If the IDA has an established relationship with a private lender, the IDA will refer the individual to that particular private lender. If the IDA does not have an established relationship with a private lender, the individual will need to contact private lenders on their own and/or request assistance from the IDA.
- B. The private lender first makes its own loan analysis, determines what collateral and guarantees are necessary and sets the interest rate and payment schedule for the loan. The lender should consult with its tax advisors to calculate the appropriate interest rate. A lender who is subject to alternative minimum tax may not benefit from the tax-exempt status of the loan.
- C. Upon completion of the credit review, the lender will consult with the IDA. The lender will then process the loan application and assist the individual in completing the appropriate documents.
- D. The borrower will then complete the Authority's application. The IDA will review the information accompanying the application. Once the Authority's application is satisfactory the project will be presented to the Board.
- E. After the application has been approved by the IDA Board, a public hearing must be held on the proposed project. A notice of public hearing must be published in a newspaper of general circulation in the county in which the project is located at least 14 days prior to the actual day of the meeting. The public hearing is normally held concurrently with the public meeting of the IDA Board. Once the public hearing has been held, a Highest Elected Official Letter must be obtained from the highest elected official of the county in which the project is located. When the following items have been obtained/completed, an electronic Single Application for Assistance is completed, and two copies of the following items are sent to DCED:
 - 1. IDA Resolution
 - 2. Proof of Publication (a copy from the newspaper of the public hearing notice)
 - 3. Highest Elected Official Letter
 - 4. Counsel Opinion Letter
 - 5. Letter of Intent (from the lender)
 - 6. IDA Appendix
 - 7. Application Supplement

If any of the above named items are missing from the application submitted to DCED, the application is not considered complete. The Electronic Single Application for Assistance can be found at <https://www.esa.dced.state.pa.us/ESAW/>.

- F. When the electronic single application is received, DCED will forward a copy to the Pennsylvania Department of Agriculture (PDA) for their independent review for allocation. DCED has a total of 20 days to review a complete application. DCED will run Contractor Responsibility Clearance(s) on the principal(s). If the principal(s) are compliant with both searches, then an approval is issued. The approval certificate is transmitted to the IDA. If the principal(s) are not compliant with the Commonwealth in either or both instances, the principal(s) must take corrective action for an approval to be issued.
- G. After the IDA receives project approval from DCED, the IDA must submit a Preliminary Allocation Request (PAR) to PDA for the project to receive an allocation of the Commonwealth's private activity bond volume cap committed to first-time farmer projects.
 - 1. The amount of the PAR cannot be more than the approved project amount. It may, however, be less than or equal to the project approval amount.
 - 2. The PAR must be submitted to PDA **PRIOR** to closing. If allocation is available, the PAR will be approved by PDA and the project can close. The PAR approval is good for 90-days beginning the day it is approved. The project must close within the 90-day period. If the project does not close within this period, the IDA must immediately contact PDA.
- H. Once the project closes, the IDA must submit an IRS 8038 form and a Final Allocation Request (FAR) form to PDA for approval within 15 days of the project closings. Otherwise, the project may lose allocation.
 - 1. The amount of the FAR cannot be more than the PAR. It may, however, be less than or equal to the PAR approval amount.
- I. After the loan documents have been signed by the borrower and lender and approved by the IDA, the IDA will authorize the lender to fund the project.
- J. To facilitate the making of the loan, the Lender Loan Agreement provides that the lender will act as agent and fiduciary for the IDA in connection with the loan. The principal and interest of the loan are payable solely out of the revenue derived from the borrower's promissory note, which is secured by collateral furnished by the borrower. The loan, which is issued by the IDA and purchased by the lender, is a non-recourse obligation of the IDA. The principal and interest on the loan do not constitute an indebtedness of the IDA or a charge against its general credit or general fund.
 - 1. If the lender determines that a Guaranty of Promissory Note is required, it must use the form of guaranty included in the loan documents package.
 - 2. The IDA's role is that of a conduit. It has no fiscal or management responsibilities whatsoever. The IDA assists the applicant in securing financing at tax-exempt interest rates.
 - 3. The Borrower will make installment payments to the lender, and/or contract seller, consistent with terms and conditions of the note.
 - 4. Loans may not be assumed without the prior approval of IDA, and then only if the assuming party is an eligible applicant. The benefits of the loan made at the tax-free rate from the proceeds of an IDA mortgage must remain with the qualified borrower, and no person other than the borrower may obtain the benefits of the IDA loan.
- K. Fees - Fees associated with the Program will vary among lenders and, are negotiated independent of the Commonwealth Departments.

Section VI – Definitions

The definitions used in the Next Generation Farmer Loan Program are important to lenders, local industrial development authorities, and individual(s) contemplating use of the Program.

- A. Agricultural Improvements** – Any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land.

No portion of the loan proceeds may be used for the purchase of a residence. The applicant must make a down payment or obtain conventional financing for the value of the residence.

- B. Agricultural Land** – Land suitable for use in farming and which is or will be operated as a farm.

- C. Application** – Each application must include the following: first-time or beginning farmer’s name, address, financial data, description of anticipated use of loan proceeds, amount of loan or contract sale to be financed, down payment amount (if any), statement of beginning farmer’s net worth, a summary of proposed loan or contract terms and certification of the beginning farmer.

If a mortgage is sought with respect to a partnership, separate applications and financial statements must be submitted by each partner and an aggregate financial statement covering the partnership and all partners must also be submitted.

- D. Beginning Farmer** – An individual or partnership with a low or moderate net worth who engages in farming or wishes to engage in farming, and that has not at any time had any direct or indirect ownership interest in “substantial farmland.”
- E. Depreciable Agricultural Property** – Personal property suitable for use in farming for which income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1986.
- F. Farm** – A farming enterprise which is recognized in the community as a farm rather than a rural residence.
- G. Farming** – The cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit and other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, and the production of forest products.
- H. First-Time Farmer** – A person who has never had a direct or indirect ownership interest in “substantial farmland” in the operation of which he or she has materially participated. An ownership interest or material participation by a person’s spouse or minor child will be attributed to that person as well.

However, Federal tax law also provides that a person’s prior ownership interest in farmland will be disregarded if:

1. Such farmland was disposed of while the person was insolvent; and,
 2. Section 108 of the Internal Revenue Code applied to the indebtedness with respect to such farmland; that is, the person was not required to recognize income for federal tax purposes from the cancellation of the indebtedness of the farmland loans.
- I. Indirect Land Ownership** – If a person holds a minimal interest in a family farm corporation, a limited partnership, a trust, or any other type of entity which in turn owns farmland in an amount which is greater than 30 percent of the median size farm in the county, and the person materially participates in the operation of such farmland, then the person will not qualify as a first-time farmer.

J. Low or Moderate Net Worth –

1. For an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than \$500,000, adjusted annually based upon the percentage change in average farm real estate values in Pennsylvania, as reported by the USDA National Agricultural Statistics Service.
2. For partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, together with each partner's spouse and minor children of less than \$1,000,000, adjusted annually based upon the percentage change in average farm real estate values as reported by the USDA National Agricultural Statistics Service. However, the aggregate net worth of each partner shall not exceed \$500,000, adjusted annually based upon the percentage change in average farm real estate values in Pennsylvania, as reported by the USDA National Agricultural Statistics Service.

The current aggregate net worth figures applicable to a determination of "low or moderate net worth" are available on-line, through the following PDA website: www.PAgrows.com

- K. Net Worth** – Total assets minus total liabilities, as determined in accordance with generally accepted accounting principals with appropriate exceptions and exemptions reasonably related to an equitable determination of the beginning farmer's or partnership's net worth. Assets shall be valued at fair market value.
- L. Note Purchaser** – Any individual, lender, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity that obtains an Authority note under the Program in connection with a contract sale or loan to a beginning farmer.
- M. Related Persons** – According to the IRS, includes grandfather, grandmother, father, mother, brother, sister, child, grandchild or spouse. It also includes certain corporations and partnerships.
- N. Substantial Farmland** – Any parcel of land is substantial farmland unless such parcel is smaller than 30 percent of the median size of a farm in the county where the parcel is located.
- O. Total Asset** – Total assets shall include, but not be limited to, the following: cash crops or feed on hand; livestock held for sale; breeding stock; marketable loans and securities (not readily marketable); accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment; cars and trucks; farm and other real estates including life estates and personal residence; value of a beneficial interest in a trust, government payments or grants, and other assets. Total assets shall not include items used for personal, family or household purposes by the applicant, but in no event shall such property be excluded to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the participating lender. Such value shall be what a willing buyer would pay a willing seller in the locality.
- P. Total Liabilities** – Total liabilities shall include, but not be limited to, the following: accounts payable, notes or other indebtedness owed to any source, taxes, rent, amount owed on a real estate contract or real estate mortgages, judgments, accrued interest payable, any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.
- Q. Volume Cap** – The dollar amount of tax-exempt obligations that each state can issue in a given year.
- R. Preliminary Allocation Request (PAR)** – Commonwealth form that requests allocation of a portion of the volume cap to be earmarked for a specific project in an amount that is equal to or less than the project approval amount.
- S. Final Allocation Request (FAR)** – Commonwealth form that indicates the actual dollar amount of the loan to finance the project. This amount must be equal to or less than the approved PAR amount.
- T. IRS 8038** – IRS form that must be filled out and filed with the IRS indicating the amount of tax-exempt allocation received. The approved FAR must be attached to this form when it is submitted to the IRS.

Pennsylvania Median Farm Size

by County (Pennsylvania Average Farm Size, 2002)

County	Median Acres	30% of Median
<i>Pennsylvania</i>	<i>.65</i>	<i>.19.5</i>
Adams .....	.50 .....	.15
Allegheny .....	.40 .....	.12
Armstrong .....	.93 .....	.27.9
Beaver .....	.53 .....	.15.9
Bedford .....	.112 .....	.33.6
Berks .....	.50 .....	.15
Blair .....	.89 .....	.26.7
Bradford .....	.115 .....	.34.5
Bucks .....	.21 .....	.6.3
Butler .....	.61 .....	.18.3
Cambria .....	.68 .....	.20.4
Cameron .....	.95 .....	.28.5
Carbon .....	.50 .....	.15
Centre .....	.73 .....	.21.9
Chester .....	.35 .....	.10.5
Clarion .....	.90 .....	.27
Clearfield .....	.80 .....	.24
Clinton .....	.67 .....	.20.1
Columbia .....	.66 .....	.19.8
Crawford .....	.82 .....	.24.6
Cumberland .....	.45 .....	.13.5
Dauphin .....	.50 .....	.15
Delaware .....	.26 .....	.7.8
Elk .....	.49 .....	.14.7
Erie .....	.57 .....	.17.1
Fayette .....	.65 .....	.19.5
Forest .....	.66 .....	.19.8
Franklin .....	.89 .....	.26.7
Fulton .....	.109 .....	.32.7
Greene .....	.89 .....	.26.7
Huntingdon .....	.100 .....	.30
Indiana .....	.74 .....	.22.2

County	Median Acres	30% of Median
Jefferson	.92	.27.6
Juniata	.71	.21.3
Lackawanna	.66	.19.8
Lancaster	.52	.15.6
Lawrence	.78	.23.4
Lebanon	.40	.12
Lehigh	.33	.9.9
Luzerne	.64	.19.2
Lycoming	.83	.24.9
McKean	.88	.26.4
Mercer	.82	.24.6
Mifflin	.60	.18
Monroe	.37	.11.1
Montgomery	.22	.6.6
Montour	.56	.16.8
Northampton	.36	.10.8
Northumberland	.62	.18.6
Perry	.80	.24
Philadelphia	.8	.2.4
Pike	.50	.15
Potter	.123	.36.9
Schuylkill	.56	.16.8
Snyder	.60	.18
Somerset	.110	.33
Sullivan	.112	.33.6
Susquehanna	.100	.30
Tioga	.113	.33.9
Union	.70	.21
Venango	.68	.20.4
Warren	.70	.21
Washington	.70	.21
Wayne	.100	.30
Westmoreland	.64	.19.2
Wyoming	.70	.21
York	.36	.10.8

Source: 2007 Census of Agriculture, released 2/4/2009