

Clean & Green

Rules & Regulations

Act 319



Title 7. Agriculture

Part V-C Farmland and Forest

Land Assessments

Chapter 137. Preferential

Assessment of Farmland and

Forest Land

Tioga County Board of Revision
Tioga County Courthouse
118 Main Street
Wellsboro, Pa 16901

PLACE FIRST
CLASS
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Department of Agriculture:

Pennsylvania Department of Agriculture
Bureau of Preservation
2301 North Cameron Street
Harrisburg, Pa 17110-9408

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Chapter 137b
Preferential Assessment of Farmland
And Forest Land Under the
Clean & Green Act

For more information from Chapter 137b
visit this website:

www.pacode.com/secure/data/007/chapter137b/chap137btoc.html

NOTES

Clean & Green Rules & Regulations

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Wellsboro, Pa 16901

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The program was recently amended to allow for one small non-coal surface mining permit on enrolled land. Rollback taxes are due on the affected areas.

11-9. MAY I REMOVE MY PROPERTY FROM CLEAN & GREEN?

(a) A landowner receiving preferential assessment under this act may remove land from preferential assessment if:

- (1) the landowner notifies in writing the county assessor by June 1 of year immediately preceding the tax year for which the removal is requested;
- (2) the entire tract or tracts enrolled on a single application for preferential assessment is removed from preferential assessment; and
- (3) the landowner pays rollback taxes on the entire tract or tracts.

(b) Land removed from preferential assessment under this section shall not be eligible to be subsequently reenrolled in preferential assessment by the same landowner.

(c) Nothing in this section shall be construed to prohibit a landowner whose land was terminated from preferential assessment under other sections of this act from reenrolling the land in preferential assessment.

FREQUENTLY ASKED QUESTIONS

11-1. IF I SPLIT-OFF 2 ACRES WILL THERE BE ROLL-BACK TAXES OWED?

Yes, there will be roll-back taxes owed, but it will not cover the whole parcel. Roll-back taxes will be calculated on just the 2 acres. Unless the two acres are used for something other than residential or agricultural. If the two acres are used for commercial purposes then the violation would be on the whole original tract of land.

11-2. COULD I GET AN ESTIMATE FOR ROLL-BACK TAXES JUST IN CASE I DO VIOLATE?

Yes, write a letter requesting an estimate to the county assessor.

11-3. CAN I BUILD ON MY PROPERTY IF IT IS ENROLLED IN CLEAN & GREEN?

Yes, you can do anything that you would like to your property as long as you don't change to ineligible land use. In which case there would be roll-back taxes owed.

11-4. WHAT WOULD HAPPEN IF I SPLIT-OFF 4 ACRES OF LAND?

If there is a split-off of acreage between 2-10 acres there will be roll-back taxes owed.

11-5. WHAT IS ACT 235 OF 2004?

Act 235 excludes farmstead land ("base acre") from receiving preferential assessment, if there is a building (house/outbuilding) on the property, when lands are enrolled as agricultural reserve or forest reserve.

11-6. WHAT IF I SPLIT-OFF 2-10 ACRES OF LAND TO ANOTHER PARCEL THAT IS ENROLLED IN CLEAN & GREEN?

There will be no roll-back taxes owed if the 2-10 acres of land goes to another parcel of land that is enrolled in the Clean & Green program. The reason being is that the 2-10 acres would still be in Clean & Green.

11-7. MAY I ENGAGE IN ENERGY DEVELOPMENT ON MY CLEAN & GREEN PROPERTY?

The program was recently amended to provide for oil and gas development with limited rollback tax penalty. Rollback taxes are only due with respect to those areas of the property devoted to the activity-as determined by the county assessor upon submission of a well production report to the Pennsylvania Department of Environmental Protection (DEP). Similarly, commercial wind production is now permitted with rollback taxes limited to those areas devoted to the activity. Tier one alternative energy systems-such as solar and biomass-are permitted without any rollback tax penalty if the majority of energy is utilized on the enrolled tract.

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DEFINITIONS

The following words and terms, when used in chapter 137b, shall have the following meanings, unless the context clearly indicates otherwise:

Agricultural Commodity-- All plant and animal products including Christmas trees produced in this Commonwealth for commercial purposes. Animal products including equine and other livestock, that are produced and bred for commercial purposes.

Agricultural Reserve-- Noncommercial open space lands used for outdoor recreation, for the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis. The term includes any land devoted to the development and operation of an alternative energy system, if a majority of the energy annually generated is utilized on the tract.

Agricultural Use-- Use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal government.

Bureau of Forestry, Pennsylvania Department of Environmental

Resources-

The Commonwealth office where inquires about Forest Reserve and Forest Management Plans can be directed to: Bureau of Forestry, Evangelical Press Building, P O Box 1467, Harrisburg PA 17120.

Contiguous land or Contiguous areas-- All portions of one operational unit as described in the deed whether or not the portions are divided by streams, paved public roads, streets or bridges. Includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

County Assessor or County Board of Assessment-- The agency charged with the administration of the Clean & Green Act.

Forest Reserve-- Land 10 acres or more, stocked by forest trees of any size and capable of producing timber or other wood

Ineligible land or ineligible use-- Land or land use that fails to meet the requirements.

Pennsylvania Department of Agriculture-- The Commonwealth agency charged with the promulgation of rules and regulations for the act. Inquiries about this chapter can be directed to the Office of Planning, Research and Economic Development, Department of Agriculture, 2301 North Cameron Street, Harrisburg PA 17110.

Preferential Assessment-- The assessment as determined under the provisions of the act.

Roll-Back Tax-- The amount equal to the difference between the taxes paid or payable on the basis of the valuation and the assessment authorized in chapter 137b and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district in the current tax year, the year of change, and in six of the previous tax years under the act or the number of years of preferential assessment up to seven years.

9-6. **IS THERE ANY TYPE OF PENALTY IF I DO NOT COMPLY WITH ANY REGULATIONS UNDER THE CLEAN & GREEN ACT?**

The County Board of Assessment appeals may assess a civil penalty of not more than one hundred dollars (\$100) upon a person for each violation of this act or any regulation promulgated under this act.

For example: If a property owner does not file a Clean & Green amended application if there is a ownership change, or acreage change the Board of Assessment will assess a civil penalty.

OTHER INFORMATION

9-1. AMENDMENTS TO ORIGINAL APPLICATION

When a landowner receiving preferential assessment changes a deed as a result of a split-off, separation, transfer or change of ownership, the county board for assessment appeals shall adjust the initial application to reflect the deed change. Such change shall be recorded in the recorder of deeds office. Recording fees shall be paid by the landowner.

9-2. WHAT HAPPENS IF AN OWNER DIES?

Upon death of an owner of enrolled land, if any enrolled land is divided among the beneficiaries for inheritance tax purposes, and no longer meets the minimum qualifications for preferential assessment. Then, no roll-back taxes may be charged on any of the land that no longer meets the requirements for preferential assessment.

9-3. MAY I CONDUCT NON-AGRICULTURAL ACTIVITIES ON MY CLEAN & GREEN PROPERTY?

The act allows for a "rural enterprise incidental to the operational unit." This is defined as a commercial enterprise or venture that is conducted on two acres or less of enrolled land, and when conducted does not permanently impeded or otherwise interfere with the production of an agricultural commodity on that portion of enrolled land not subject to roll-back taxes. The two acres on which this enterprise is conducted would be removed from preferential assessment. Rollback taxes would be due with respect to those two acres

9-4. WHAT HAPPENS IF THEY WANT TO PUT A CELL PHONE TOWER ON MY PROPERTY?

(a) An owner may lease a tract of land to be used for wireless communications, under the following conditions:

- (1) The leased tract does not exceed 1/2 acre.
- (2) The tract of land can only have 1 communication tower located on it.
- (3) The tract is accessible.
- (4) The tract is not conveyed or subdivided. A lease is not considered a subdivision.

9-5. HOW MUCH DOES IT COST TO ENROLL INTO THE CLEAN & GREEN PROGRAM?

There is a one time nonrefundable application fee of \$50, plus the recording fee (note: The recording fee is set by the Recorder of deeds office). There may also be additional fees if you have more than four names on the application, or if you have more than one parcel on the application (these fees can be found on the bottom of the application).

Separation-- A division, by conveyance or other action of the owner, of land devoted to agricultural use, agricultural reserve, forest reserve and preferentially assessed under the provisions of the act into two or more tracts of land, the use of which continues to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements.

Split-off-- A division by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve, or forest reserve and preferentially assessed under the provisions of the act into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements.

Transfer-- A conveyance of all of the enrolled land described in a single application for preferential assessment under the act.

Use-value assessment-- The assessment as determined under the provisions of the act.

GENERAL PROVISIONS

2-1. WHAT IS CLEAN AND GREEN?

Clean & Green is a preferential tax assessment program that bases property taxes on use values rather than fair market values. This ordinarily results in a tax savings for landowners. The Pennsylvania General Assembly enacted the program in 1974 as a tool to encourage protection of the Commonwealth's valuable farmland, forestland and open spaces. Currently, more than 9.3 million acres are enrolled statewide.

2-2. UNDER WHICH ACT IS THE PROGRAM CONDUCTED?

(a) Chapter 137b sets forth provisions to implement the Pennsylvania and Forest Land Assessment Act of 1974 (72 Purdon's 5490.1-5490.13). It is sometimes unofficially referred to as Act 319 of 1974 or the Clean & Green Act.

(b) The act provided for land devoted to agricultural use, agricultural reserve, or forest reserve to be assessed at the value it has for that use rather than at development value. The intent of the act is to encourage you to retain your land in one of these uses.

2-3. WHAT ROLE DOES THE PENNSYLVANIA DEPARTMENT OF AGRICULTURE PLAY IN THE ADMINISTRATION OF ACT 319?

The Pennsylvania Department of Agriculture is responsible for developing application forms and the rules & regulations, in order to assure state-wide uniformity. The Department of Agriculture has an advisory role in the administration of the act. It does not administer the rules and regulations.

2-4. WHO DOES HAVE THE RESPONSIBILITY TO ADMINISTER ACT319?

The county assessor has the major responsibility for administration of the act. The County assessor must process application forms, calculate the assessment, determine what penalties are due when the provisions of the act are violated, and keep records for those properties enrolled under the act?

2-5. WHAT ARE THE BENEFITS FOR ME UNDER THE PROGRAM?

The benefits to you as a landowner are an assurance that your land will not be assessed at the same rate as adjacent land under development pressure and not enrolled in the program. In almost all cases, you will see a reduction in your property tax assessment compared to land that is being developed. The difference between assessments of land enrolled under that act and nonparticipating land will be most noticeable when a county is reassessed.

The intent of the act is to protect you from being forced to go out of agriculture or sell part of the land, in order to pay unusually high taxes. In addition to the tax benefit, you as well as your neighbors, benefit by having the land kept in agricultural use rather than developed

2-6. MUST I ALLOW PUBLIC ACCESS TO MY CLEAN & GREEN PROPERTY?

Agricultural Reserve is the only category that needs to remain open to the public for passive recreational uses free-of-charge on a non-discriminatory basis. A landowner may place reasonable restrictions on this, however. Examples include limiting access after dark, prohibiting hunting and restricting use of motorized vehicles.

2-7. AM I ELIGIBLE FOR A TAX ASSESSMENT UNDER ACT 319?

A property must be ten acres in size and in Agricultural Use, Agricultural Reserve, or Forest Reserve. Agricultural Use applications may be less than 10 acres in size if the property is capable of generating at least \$2,000 annually in farm income

2-8. DOES MY LAND QUALIFY UNDER THE REQUIREMENT OF AN AGRICULTURAL USE?

(a) Your land must have produced an agricultural commodity three years prior to the application submitted and must presently be devoted to the production of an agricultural commodity. Your land must also be 10 contiguous acres, you may still qualify under agricultural use, if you can prove to your county assessor that the land has an anticipated gross income of \$2,000 per year from the production of agricultural commodities. This can be shown by using evidence from soil surveys, from proof of income for three years, or from other evidence acceptable to your county assessor. Your county assessor can require you to furnish with your application certified copies of the applicable schedules of your Federal or State income tax returns or both to establish proof of an anticipated annual gross income of \$2,000 or more from the production of agriculture commodities. The annual income requirement for land less than 10 contiguous acres must be met each year, unless there are circumstances beyond your control.

(b) For example, you have eight acres of land. This land contains a fruit orchard which produces at least \$2,000 of annual gross income to you. The land is under the tax assessment under the act. Last year, a disease destroyed all your fruit trees. Therefore, you have no gross income to report from the orchard. As long as you make a good faith effort to replant your orchard, you are still eligible for the tax assessment under the act, and there has been no change in use.

7-6. WHAT HAPPENS WHEN ROLL-BACK TAXES ARE NOT PAID?

The county can cause a lien to be placed on your land for the value of the roll-back taxes and interest and any other administrative and local court costs. The lien can be collected by the county having jurisdiction in the same manner as other lien debts on real estate.

HOW TO DETERMINE ROLL-BACK TAX

7-1. WHAT HAPPENS IF I CHANGE TO AN INELIGIBLE LAND USE?

If you change to an ineligible land use, you are liable for roll-back taxes and interest on that land on which the use change occurs.

7-2. WHAT MUST I DO IF I CHANGE TO AN INELIGIBLE LAND USE?

You must notify your county assessor 30 days before the use change. The notice must state the number of acres subject to use change and the number of acres retained by you in an eligible use if any.

7-3. WHAT ARE ROLL-BACK TAXES?

(a) Roll-back taxes are the difference between what you have been paying as real estate taxes based upon your tax assessment under the act and what you would have paid if your land had not been assessed under the act.

(b) For example, you own 100 acres. Your tax assessment under the act is \$5,000. If you had not been assessed under Clean & Green, your assessment would have been \$25,000. Your total annual real estate millage is 100 mills. Therefore, under a tax assessment under the act your real estate taxes amount to \$500 per year. If your land was not under the Clean & Green act, your real estate taxes would have been \$2,500 per year. This difference is \$2,000. That difference is the amount of roll-back taxes (plus you have to consider interest and penalty).

7-4. WHO HAS TO PAY THE ROLL-BACK TAXES?

The general rule is that the person who owns the land and who changes to an ineligible use, is liable for the roll-back taxes and interest. Here are some examples:

(1) If you change your entire tract of land to an ineligible use, then you are liable for the roll-back taxes on the entire tract of land.

(2) If you separate your land, then the owner of a tract who changes the use is liable either for the entire original tract's roll-back taxes or the roll-back taxes only on his tract. It depends upon whether he changes use within seven years of the separation.

(3) If you split-off a part of your land and change to an ineligible use on that part, then the part split-off and the remaining portion of your land are liable for roll-back taxes.

7-5. WHEN ARE MY ROLL-BACK TAXES DUE?

Your roll-back taxes and interest are due on the day of change of use. That day can be the date of conveyance of your land to another who does not desire to continue with an eligible use. The day of change of use can also be determined by your county assessor to be that day when you have taken substantial steps to begin to change to an ineligible use.

(c) For another example, you have eight acres of land, and you are receiving preferential assessment under act 319. You have \$2,000 annual gross income from swine production. After two years under Act 319 tax assessment under the act, you decide to sell your entire swine herd. You do not have an anticipated annual gross income of \$2,000. Your failure to receive the annual gross income will result in changing the land to ineligible use. Therefore you are liable for roll-back taxes and interest

2-9. DOES MY LAND QUALIFY UNDER THE REQUIREMENT OF AN AGRICULTURAL RESERVE?

(a) Agricultural reserve land must be at least 10 acres in area and may not be used for any commercial purposes; that is, you may not earn any profit from any use of the land. This is the only category where the land must be open to the public for use as outdoor recreation or the enjoyment for scenic or natural beauty. No fee can be charged for the use of the land; nor can you discriminate against a person on the basis of race, creed, color, sex, age or national origin.

(b) Before a person can enter upon your land, they must first, whenever possible, notify you of his/her intent to enter. You can deny entry to your land in cases when damage to the property might result. You can close off entry to areas upon prior notification to the county assessor of the existence of hazardous situations. However, the public has a right to use your land for recreation and for the enjoyment of scenic and natural beauty. Your reasons to deny entry to your land must be based on fact and be acceptable to your county assessor.

2-10. DOES MY LAND QUALIFY UNDER THE REQUIREMENTS OF FOREST RESERVE?

(a) Your land must be presently stocked with trees and capable of producing 25 cubic feet per acre of annual growth.

(b) Your land must also be at least 10 contiguous acres. If you own a farm woodlot that is contiguous to your land in the agricultural use category, the ten acre minimum requirement is not necessary.

HOW TO APPLY FOR CLEAN & GREEN

5-1. WHERE DO I GET AN APPLICATION FOR A TAX ASSESSMENT UNDER THE ACT?

You can request an application for Clean & Green from the Tioga County Assessment Office, or you can visit www.tiogacountypa.us to view the Rules and Regulations and for a application.

5-2. WHEN SHOULD I APPLY FOR CLEAN & GREEN

You must submit your completed application to the county assessor on or before **June 1** of the year immediately preceding the tax year. With an exception in a year a county implements a county wide reassessment, the application deadline shall be extended to either a date 30 days after the final order of the county Board of Assessment Appeals, or by October 15 of the same year.

5-3. WHAT FORMS SHOULD I COMPLETE?

You must complete the application Form AA0-82, Part I. Depending upon the eligible use category you desire.

5-4. HOW MUCH OF MY LAND MUST BE ENROLLED UNDER ACT 319?

All contiguous land described in one deed must be enrolled in the program. This means that if the deed describes two tracts of land that are next to each other and are part of one operational unit, both tracts of land must be enrolled in the program.

5-5. ONCE ENROLLED IN ACT 319, MUST I SUBMIT AN ANNUAL REQUEST FOR CONTINUANCE OF MY ENROLLMENT?

Your tax assessment under the act shall continue until a land use change takes place.

5-6. CAN I APPEAL A DECISION OF MY COUNTY ASSESSOR?

You or the taxing district in which the property is located, have the right to appeal any decision of the county assessor regarding your application and the method used to determine any assessments under the provisions of the act. You must first appeal to the County Board of Assessment. After this board has made a decision, you then have the right to appeal to the Court of Common Pleas.

5-7. WILL MY TAX ASSESSMENT UNDER ACT 319 STAY THE SAME EVERY YEAR?

Your tax assessment under the act may change due to a reassessment of your land by the county assessor.

5-8. WHO NEEDS TO SIGN THE CLEAN & GREEN APPLICATION?

Everyone's name that appears on the deed needs to sign the application. Also, all signatures must be notarized.

HOW TO CONVEY LAND

6-1. WHAT MUST I DO IF I SEPARATE, SPLIT-OFF OR TRANSFER A PORTION OF MY LAND UNDER THE ACT?

(a) You must notify your county assessor at least 30 days with written notice prior of a transfer, separation, or split-off. The notice shall include the following information:

- (1) Name and address of the persons, partnership or companies to whom you are conveying the land.
 - (2) Date of the proposed transfer, separation or split-off.
 - (3) The amount of land to be transferred, separated or split-off.
 - (4) The present use of the land to be transferred, separated or split-off.
 - (5) The date of the original application for tax assessment under the act.
 - (6) Any previous transfers, separation or split-offs of tax assessed land under the act from, the original tract.
 - (7) The intended use to which the land when transferred, separated or split-off will be applied.
- (b) Notification forms for proposed separations, transfers, or split-offs can be obtained by your county assessor from the Pennsylvania Department of Agriculture.

6-2. CAN I TRANSFER ALL OF MY LAND AND DOES IT STILL REMAIN UNDER THE TAX ASSESSMENT UNDER ACT 319?

You can convey all your land to another person and the land will still retain the tax assessment under the act, as long as there is no change to an ineligible use.

6-3. CAN I SEPARATE MY LAND AND DOES THE LAND STILL REMAIN UNDER THE TAX ASSESSMENT ACT 319?

You can separate your land into two or more tracts, as long as the eligible use continues on each tract. Each tract so formed must also be ten contiguous acres, or it must produce an anticipated yearly gross income of \$2,000 or more. If one of the owners of the tract that you formed in the separation changes his tract to an ineligible use within seven years of the date of separation, then that owner is liable for all the roll-back taxes and interest on the original tract of land that you separated. After seven years from the date of your separation, an owner of a tract that you formed can change to an ineligible use and be liable only for the roll-back on his tract

6-4. CAN I SPLIT-OFF A PORTION OF MY LAND AND STILL RETAIN THE TAX ASSESSMENT UNDER ACT 319?

You are restricted to the following:

- (1) The tract of land that you split-off must not exceed two acres annually.
- (2) The total amount of split-off tracts of land cannot exceed 10% or 10 acres, whichever is the least, of your entire tract of land under a tax assessment under the act.
- (3) The two acres must be used for residential, or agricultural.