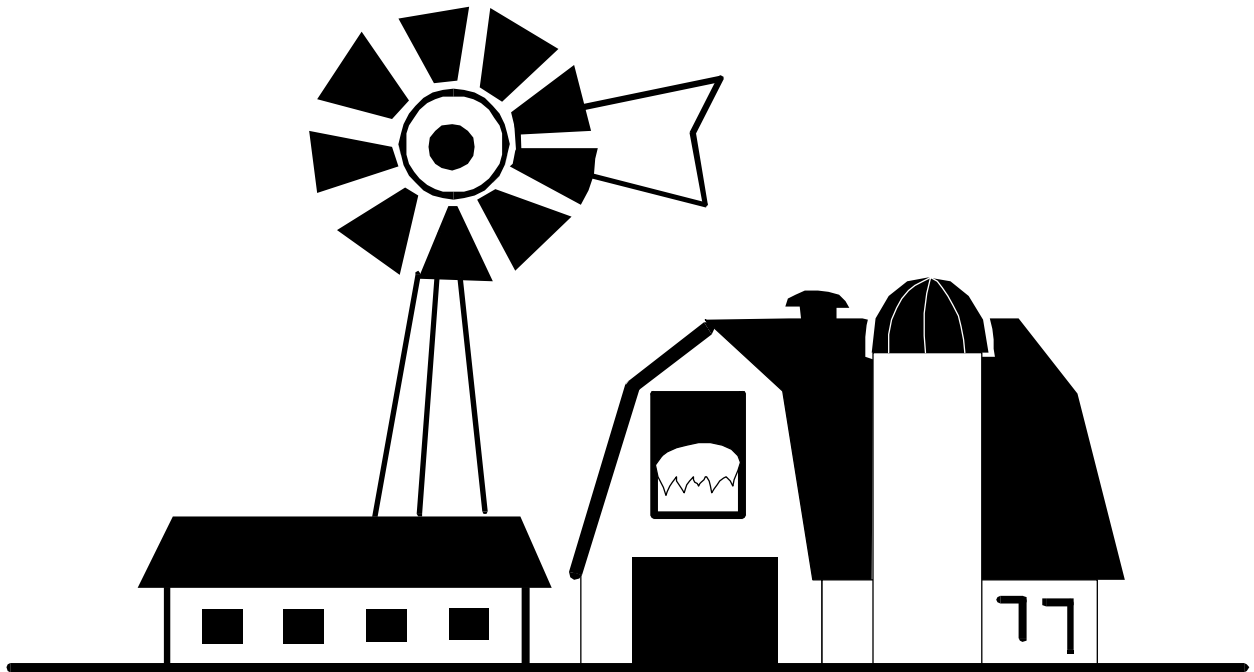


Understanding Clean and Green



Lycoming County Assessment Office

48 West Third Street
Williamsport PA 17701
(570) 327-2301

DISCLAIMER: The material contained in this booklet is intended to provide only general information concerning the Pennsylvania Farmland and Forest Land Assessment Act of 1974, as amended by Act 156 of 1998 and as amended by Act 235 of 2004. This handout is NOT intended, nor should it be interpreted by the reader, to offer any legal advice or express any legal opinion of how the Act will be interpreted under normal or special circumstances the reader may face. IT IS RECOMMENDED THAT YOU SEEK LEGAL COUNSEL IN ORDER FOR YOU TO FULLY UNDERSTAND YOUR LEGAL RIGHTS AND RESPONSIBILITIES UNDER THIS ACT.

This booklet has been developed under the general direction of Dr. Robert S. Barr, CPE, President , 21st Century Appraisals, Inc., 1801 Oberlin Road, Suite 210, Middletown, PA 17057, with unofficial input from county solicitors, commissioners, assessors, Department of Agriculture officials, House Agricultural and Rural Affairs Committee officials, Pennsylvania Farm Bureau officials and state legislators.

Understanding the Clean and Green Program

COUNTY OF LYCOMING
Lycoming County Courthouse
48 West Third Street
Williamsport PA 17701

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Lycoming County Assessment Office

GUIDELINES FOR UNDERSTANDING CLEAN AND GREEN

When a county implements a Clean and Green program, it places two values on each parcel of land that qualifies. These values are known as the *Fair Market Value* and the *Use Value*, better known as the Clean and Green Value. After these new values have been certified by the county, tax bills are calculated for each taxing district, using either the *Fair Market Value* assessment or the *Use Value* assessment, depending upon whether or not the property owner has enrolled his property in the Clean and Green program.

The property owner's decision to enroll should be based upon factual information about the Clean and Green law and its requirements for eligibility. Property owners should take the necessary steps to understand the Clean and Green program and make an informed decision that is in their best interest. To help property owners understand the program and its impact, officials have provided this booklet to answer the most frequently asked questions about Fair Market Value and Clean and Green.

THE CLEAN AND GREEN PROGRAM, IN GENERAL

1. WHAT IS CLEAN AND GREEN?

Clean and Green – Pennsylvania Farmland and Forest Land Assessment Act, Act 319 (amended by Act 156 of 1998 and Act 235 of 2004) is a state law, authorized by the state constitution, that allows qualifying land which is devoted to agricultural and forest land use, to be assessed at a value for that use rather than Fair Market Value. The intent of Act 319 is to encourage property owners to retain their land in agricultural, open space, or forest land use, by providing some real estate tax relief.

2. WHO BENEFITS FROM THE CLEAN AND GREEN PROGRAM?

Everyone benefits, either directly or indirectly, from this program. Property owners benefit directly by receiving assessment relief which may result in lower taxes, as long as they do not use their land for housing developments or other land uses that are not consistent with agricultural production, open space, or forest land use. The general public benefits from the preservation of our farmland, woodlands, and the future heritage of our land.

3. WHAT BENEFIT IS PROVIDED TO LANDOWNERS WHOSE LAND QUALIFIES FOR THE CLEAN AND GREEN PROGRAM?

Property owners whose lands are eligible for Clean and Green receive a different tax assessment value than other homeowners. Normally, the value of property for tax purposes is based on the property's *Fair Market Value*. Properties enrolled in the Clean and Green program will be valued on a *Use Value* basis. Valuation of property on a Use Value basis will most often result in a lower tax assessment value and lower property taxes to be paid by the owner than what the owner would pay under a tax assessment based on Fair Market Value.

4. WHAT IS FAIR MARKET VALUE AND HOW IS IT DETERMINED?

Fair Market Value is the typical value that a property is worth under normal circumstances. It reflects the value that a willing seller would sell and a willing buyer would pay to buy the property, neither of which are under any pressure to act. Fair Market Value not only reflects the value of the property's current use but also the property's potential for other uses that are best suited for the property's particular characteristics and conditions (often referred to as the property's highest and best use). The process of

estimating the Fair Market Value of a property is called an appraisal. An appraisal is an opinion of value supported by sufficient evidence to arrive at that conclusion of value.

5. WHAT IS USE VALUE OR CLEAN AND GREEN VALUE AND HOW IS IT DETERMINED?

Use Value does not consider all of the property's potential uses or the property's highest and best use. *Use Value* considers what the property is worth if the property is only used as agricultural, woodland, pasture, or open space land. Use valuation presumes that the land will not be used for any other purpose. The value of the property is determined from the income the land would typically generate if the land were used for agricultural, woodland, or pastureland purposes. Valuation of property on a *Use Value* basis will likely result in a lower tax assessment value being assigned to the property than valuation of property on a *Fair Market Value* basis. The Clean and Green law also states that the *Use Value* must reflect the potential of the individual parcel to produce, based upon soil capability. Another way to explain *Use Value* is the amount of money that a prudent investor might invest in an acre of land and receive a reasonable rate of return from the land use itself.

6. WHO DETERMINES CLEAN AND GREEN USE VALUES?

Each year, the Department of Agriculture publishes maximum *Use Values* for each county. Counties may apply *Use Values* lower than the State maximums as long as they are applied uniformly to all properties and are supportable by county appraisers.

7. DO I GET A TAX REDUCTION ON MY BUILDING(S) UNDER CLEAN AND GREEN?

Partially. The Clean and Green program primarily benefits the land portion of the assessment. The value of the residence and commercial buildings is not affected by Clean and Green. The 1998 amendment to Clean and Green now requires counties to use the contributory value methodology when appraising farm or outbuildings.

8. DOES THE USE VALUE ASSESSMENT AFFECT ALL OR PART OF MY TAXES?

All. If the Clean and Green application is approved, then the *Use Value* assessment will be used when computing all county, municipal, and school real estate taxes.

9. IS THE LAND UNDER MY HOUSE AND OUTBUILDINGS ELIGIBLE FOR USE VALUE ASSESSMENT?

Possibly. Recent amendments to the Clean and Green Act require the portion of land enrolled in Clean and Green that support the residence and farm buildings to be assessed at *Use Value* if the majority of the land enrolled is used predominantly for agricultural use. If the majority of the land enrolled is predominantly used for open space or forestland use, the land that supports the residence and outbuildings will be assessed at *Fair Market Value*.

10. IF I PARTICIPATE IN CLEAN AND GREEN, DO I LOSE MY RIGHTS TO USE THE LAND AS I WISH?

Being enrolled in Clean and Green puts no restrictions on the daily management of your land. You may use your land as you choose, subject to land use regulations, state and local laws, and the provisions defined in Act 319. It is simply an agreement or

covenant that as long as property owners do not change the use to an ineligible use, then they may receive the benefits provided under Clean and Green.

11. HOW LONG WILL MY LAND BE IN THE CLEAN AND GREEN PROGRAM?

Once a property is enrolled in the Clean and Green program, it will remain in the program continuously until the property owner changes the use to one that is not authorized under the Act. A change in the use of even a small portion of Clean and Green land to one that is not permitted under the Clean and Green Act may end the property's enrollment in Clean and Green. Upon the change, the county assessor will be responsible for adjusting the property's tax assessment value to reflect the assessment value changes that the Act requires.

12. MAY I BUILD A HOUSE OR OTHER BUILDINGS ON LAND I HAVE ENROLLED IN CLEAN AND GREEN WITHOUT CAUSING ADVERSE TAX CONSEQUENCES?

The owner may always build a residential building on Clean and Green land. Also, buildings that are necessary for agricultural production may be built on lands enrolled in Clean and Green.

APPLICATION AND ELIGIBILITY

13. HOW DO I ENROLL MY LAND IN CLEAN AND GREEN?

To enroll your land in Clean and Green, you must submit an application to the Lycoming County Assessment Office.

14. WHERE DO I GET AN APPLICATION, AND WHERE DO I APPLY?

You may request an application in writing or by telephone, or you may pick up an application from the Lycoming County Assessment Office. The address is: Lycoming County Courthouse, 48 West Third Street, Williamsport, PA 17701; phone (570) 327-2301.

15. WHAT IS THE COST TO ENROLL MY LAND IN THE CLEAN AND GREEN PROGRAM?

There will be a one-time, non-refundable application fee of \$50.00, and a recording fee of \$18.50. The recording fee will be refunded if the application is denied. There will be an \$18.50 recording fee for all amended applications.

16. WHEN MUST I APPLY FOR ENROLLMENT IN CLEAN AND GREEN?

The deadline for enrolling in the Clean and Green program is June 1st of each year. The application becomes effective for the tax year beginning the following January 1. In the year of a countywide reassessment, the deadline is October 15 or 30 days after the final order of the Board of Assessment which ever is earlier.

17. WHAT ARE THE MINIMUM REQUIREMENTS THAT MY LAND MUST MEET IN ORDER TO BE ELIGIBLE FOR CLEAN AND GREEN?

In order for your land to be eligible for Clean and Green assessment, the Act requires your land to meet the requirements of one of the following three (3) types of uses that the Act identifies as eligible for Clean and Green assessment:

Agricultural Use – lands must have been devoted to agriculture during the previous three (3) years, and must either be a minimum of 10 contiguous acres in area or, if less than 10 acres, must have an anticipated annual gross income from agricultural production of at least \$2,000. You may still qualify for Clean and Green under this category even if you do not personally farm the land, as long as you are renting the land to another for use in agricultural production.

Agricultural Reserve – lands are open space lands. In order to qualify, the land must be at least 10 contiguous acres in area, no commercial, and must be open to the public for outdoor recreation or enjoyment of the land's scenic or natural beauty. The owner may not charge for public access to the property.

Forest Reserve – lands are capable of producing timber. In order to qualify, the land must be at least 10 contiguous acres in area and must be capable of producing at least 25 cubic feet per acre of timber per year.

18. IF I OWN ADJOINING BUT SEPERATELY DEEDED PARCELS, MAY I ENROLL ALL PARCELS IN CLEAN AND GREEN?

If your parcels are all being used in a manner that would allow them to qualify for Clean and Green you may enroll all of the parcels in Clean and Green. You may apply for all of these parcels in a single application, but remember that any change in use to

one that is not authorized by the Act may result in rollback taxes being charged on all of the parcels enrolled, as defined by the application. If each parcel individually qualifies for the program, you may wish to consider enrolling them under separate applications.

19. AM I REQUIRED TO ENROLL ALL OF MY ADJOINING BUT SEPERATELY DEEDED PARCELS IN CLEAN AND GREEN?

No. You are not required to enroll all of your adjoining parcels in Clean and Green.

20. IF NONE OF MY DEEDED CONTIGUOUS PARCELS MEET THE MINIMUM REQUIREMENTS FOR ELIGIBILITY, COULD MY LAND STILL QUALIFY FOR CLEAN AND GREEN?

Eligibility for Clean and Green is determined from the standpoint of the total contiguous area of the land identified in the Clean and Green application. The owner of two adjoining parcels that together meet the minimum requirements of eligibility is entitled to enroll these parcels for Clean and Green assessment, even though each of the parcels would not individually qualify. However, the owner would need to enroll both tracts under one application.

21. IF MY LAND IS ALREADY ENROLLED IN CLEAN AND GREEN AND I ACQUIRE ADJOINING LAND THAT WOULD NOT INDIVIDUALLY QUALIFY FOR CLEAN AND GREEN, MAY I ENROLL THE ACQUIRED LAND IN CLEAN AND GREEN?

Yes. As long as the acquired land will be used in a manner that is consistent with the uses authorized in the Clean and Green

program, the acquired land will qualify for Clean and Green assessment. The owner must submit an amended application for the inclusion of the acquired land in Clean and Green.

22. MAY I INCLUDE PARCELS THAT ARE NOT ADJOINING ON THE SAME CLEAN AND GREEN APPLICATION?

No. The property owner must submit separate applications for parcels that are not adjacent to other parcels that you are seeking to enroll in Clean and Green. All separate parcels must meet the individual requirements of eligibility in order to be approved for Clean and Green.

23. WHAT IF A PORTION OF MY DEEDED PARCEL IS NOT BEING USED FOR A PURPOSE THAT THE CLEAN AND GREEN ACT WOULD RECOGNIZE AS AN AUTHORIZED USE?

Use of a portion of land for purposes other than Clean and Green will not prevent the portion of land that is being used for Agricultural Use, Agricultural Reserve, or Forest Reserve from being enrolled in Clean and Green. However, the portion that is not being used for Agricultural Use, Agricultural Reserve, or Forest Reserve will be assessed at *Fair Market Value*, rather than *Use Value*.

The property owner may be required to submit a map indicating the size and location of the portion of the property being used for an ineligible use.

AGRICULTURAL USE, AGRICULTURAL RESERVE, FOREST RESERVE IN CLEAN AND GREEN

24. IF I OWN LESS THAN 10 CONTIGUOUS ACRES OF LAND AND I WANT TO ENROLL MY LAND UNDER “AGRICULTURAL USE”, WILL I BE REQUIRED TO SUBMIT DOCUMENTS OTHER THAN MY APPLICATION?

The County may require the owner of land less than 10 contiguous acres to submit additional documents to show that the land has an anticipated annual gross income from agricultural production of at least \$2,000.

25. WHAT IS CONSIDERED TO BE AN AGRICULTURAL PRODUCTION THAT WOULD QUALIFY MY LAND FOR “AGRICULTURAL USE”?

The Act identifies the production of the following commodities as agricultural production:

- Agricultural products
- Apicultural products
- Aquacultural products
- Horticultural products
- Floricultural products
- Silvicultural products
- Viticultural products
- Dairy products
- Pasture
- Livestock & livestock products, including equine
- Ranch-raised fur-bearing animals and their products
- Products that are commonly raised or produced on farms which are: intended for human consumption, transported, or intended to be transported in commerce

- Processed or manufactured products commonly raised or produced on farms which are: intended for human consumption, transported, or intended to be transported in commerce
- Agritainment

Agricultural production also includes enrollment of your land in a federal soil conservation program.

26. DOES MY LAND STILL QUALIFY FOR “AGRICULTURAL USE” UNDER CLEAN AND GREEN IS SOMEONE ELSE FARMS THE LAND?

Yes. Land enrolled under Clean and Green as “Agricultural Use” will continue to qualify for Clean and Green assessment if the land is rented to another person for the purpose of agricultural production.

27. AM I REQUIRED TO KEEP MY LAND OPEN TO THE PUBLIC FOR RECREATIONAL USE IN THE CLEAN AND GREEN PROGRAM?

The Clean and Green Act only requires owners of land enrolled as “Agricultural Reserve” to allow public access to those lands. Owners of land enrolled as “Agricultural Use” or “Forest Reserve” are not required to open their land to the public.

28. TO WHAT EXTENT MUST MY LAND BE KEPT OPEN TO THE PUBLIC UNDER “AGRICULTURAL RESERVE”?

The Clean and Green Act requires land enrolled as “Agricultural Reserve” to be made available to the public for outdoor recreation or the enjoyment of scenic or natural beauty. The requirement for land being open to the public does not mean that the owner may not impose any restrictions on the public access. The owner may reasonably limit the points of access to the land and the portions of

the land that the public may enter in order to prevent damage to the property or to prevent exposure to hazardous conditions or conditions that threaten person's safety. These restrictions might include limiting access to the land to pedestrians only, prohibiting hunting or the carrying or discharge of firearms on the land, prohibiting entry where damage to the land might result, or other reasonable restrictions. The reasons for limiting public access must be based upon fact and be acceptable to the County assessor.

Landowners whose properties are enrolled as "Agricultural Reserve" may not post the land as "no trespassing". It is the public's responsibility to inquire which land is open to the public, either by asking the landowner or the County assessor.

29. DOES THE CLEAN AND GREEN ACT ALLOW ME TO USE A PORTION OF MY CLEAN AND GREEN LAND TO ADD A FARM MARKET OF OTHER COMMERCIAL BUSINESS?

Yes, with some exceptions. A landowner may use up to two (2) acres of preferentially assessed Clean and Green land for direct commercial sales of agriculturally-related products and activities and for a non-agriculturally related rural business enterprise, as long as the business is owned and operated by the landowner or immediate family members and the business activity does not permanently prevent agricultural production on the land. That portion of the land may be assessed at *Fair Market Value* rather than *Use Value*.

30. MAY I HAVE A NON-AGRICULTURALLY-RELATED BUSINESS ON MY PROPERTY?

Yes. The landowner may enroll if the non-agriculturally-related business or a rural enterprise incidental to the operational unit is conducted on two (2) acres or less of the preferentially assessed

land. If a non-agricultural business is started after enrolling in Clean and Green, a violation would occur and rollback taxes would be charged on the entire enrolled acreage.

31. WHAT IS MEANT BY THE TERM “INELIGIBLE LAND”?

Act 319 defines ineligible land as “land which is not used for any of the three (3) eligible uses (Agricultural Use, Agricultural Reserve, or Forest Reserve) and therefore cannot receive *Use Value* assessment.

If at the time of initial application the property owner declares any portion of the property under application as ineligible land not subject to use valuation, this would be referred to as “ineligible land,” and valued at *Fair Market Value*. The boundaries of ineligible land requested and delineated by the landowner must be approved by the assessor.

ROLLBACK TAXES AND TRANSFERS OF ENROLLED LAND

32. WHAT IS ROLLBACK TAX AND HOW IS IT IMPOSED ON OWNERS OF CLEAN AND GREEN LAND?

A rollback tax is imposed for changes in use of Clean and Green property other than the uses normally authorized under the Act. The rollback tax is the difference between the real estate taxes the owner would have paid if the property were assessed under *Fair Market Value* and the reduced taxes the owner paid under Clean and Green assessment. The rollback tax is imposed on the entire portion of land enrolled under the application.

Interest, at a rate of 6% compounded annually, will also be imposed on the rollback taxes due. If the property has been enrolled in Clean and Green for more than seven (7) years, the rollback taxes are limited to the current year and the six (6) previous years in which the land was enrolled.

33. IF I SELL ALL OF MY ENROLLED LAND TO ANOTHER PERSON, WILL THE SALE TRIGGER A ROLLBACK TAX?

No. A transfer of land to another owner will not trigger a rollback tax if the contiguous area of the land enrolled in Clean and Green is not divided. If the buyer changes the use to an ineligible use, then the buyer will be responsible for the rollback tax.

34. MAY I SUBDIVIDE OR SELL PART OF MY ENROLLED LAND WITHOUT CAUSING A ROLLBACK TAX?

It depends. If the subdivision meets the requirements of a “separation” or a “split-off”, the subdivision will not trigger a rollback tax. If the subdivision does not meet the requirements of either a

separation or a split-off, rollback taxes will be due with respect to the entire portion of enrolled land on the application.

In order to be a “separation” under the Act, each of the land tracts resulting from the subdivision must individually meet the minimum eligibility requirements for Clean and Green.

In order to be a “split-off” under the Act, all of the following requirements must be met:

- The amount of land split off must not be more than two (2) acres each year
- The total amount of acreage split off must not be greater than 10 acres or 10% of the contiguous acreage enrolled under the application, whichever is less
- The owner of the split-off tract may not use the land for any purpose other than uses associated with Clean and Green and the construction of a residential dwelling that the owner will occupy.

35. DOES THE CLEAN AND GREEN ACT PLACE REQUIREMENTS ON PERSONS RECEIVING LANDS THROUGH A SEPARATION OR A SPLIT-OFF?

Yes. The person receiving a separated tract may only use his or her property in a manner that complies with the requirements that are imposed generally on Clean and Green lands. The person receiving a split-off tract may only use his or her property to perform activities consistent with land enrolled in Clean and Green or to construct a residential dwelling that he or she will occupy. A rollback tax will be triggered by the failure of the owner of the separated or split-off tract to meet the requirements. The new buyer will be responsible for the rollback taxes on all parcels included on the original application.

36. MAY I OPT OUT OF THE CLEAN AND GREEN PROGRAM WITHOUT A ROLLBACK TAX IF I DO NOT CHANGE THE USE?

No. The only way out of the program is to change the use, which triggers a rollback tax. Remember that the maximum period a rollback tax may be charged is for the most recent seven (7) years.

37. ARE THERE ANY OTHER TRANSFERS THAT MAY BE PERFORMED ON CLEAN AND GREEN LANDS?

The Clean and Green Act provides for several other transfers of enrolled land. These include:

- Transfer to local governments and school districts
- Transfer to volunteer fire companies
- Transfer to charitable organizations for recreational use
- Transfer to churches
- Transfer to non-profit corporation for cemetery use
- Transfer to no-profit corporation for recreational trail use
- Lease to companies for wireless telecommunication use

The requirements and limitations that apply, the resulting tax consequences that vary with each type of transfer, and the rules governing these transfers can get complicated. It is strongly advised that you do not attempt to do any of these transfers on your Clean and Green property unless you have consulted with your attorney.

OTHER INFORMATION YOU SHOULD KNOW ABOUT CLEAN AND GREEN

38. MAY I APPEAL THE COUNTY'S DETERMINATION OF MY CLEAN AND GREEN VALUE?

Yes. Property owners have the right to appeal the county's determination of Clean and Green value to the Board of Assessment Appeals and to the Court of Common Pleas under the same rights prescribed in assessment law. They may also appeal the county's decision to deny their application, assess rollback taxes, or impose penalties.

39. DOES THE CLEAN AND GREEN PROGRAM PUT A LIEN ON MY LAND?

Enrollment of your land in Clean and Green does not automatically cause a lien to be placed on your property. However, your approved application for enrollment in Clean and Green will be recorded in the Recorder of Deed's Office. This recording places the public on notice that the land is enrolled in Clean and Green, and places potential buyers of the property on notice that they may be liable for rollback taxes if they change the use of the land to an ineligible use after they have acquired the property. Non-payment of real estate taxes, rollback taxes or civil penalties will result in a lien by authorization of the Tax Claim Bureau.

40. MUST I DO ANYTHING PRIOR TO CHANGING THE USE OF MY CLEAN AND GREEN LAND TO ONE THAT IS NOT AUTHORIZED UNDER THE CLEAN AND GREEN ACT?

Yes. The Clean and Green Act requires all owners of enrolled land to notify the County assessor at least 30 days in advance of any change in land use to one not authorized by the Act. Failure to provide notification may result in a civil penalty of up to \$100.

41. MUST I DO ANYTHING PRIOR TO TRANSFERRING ANY PORTION OF MY CLEAN AND GREEN LAND?

Yes. The Clean and Green Act requires all owners of enrolled land to notify the County assessor at least 30 days in advance of any transfer of land or any change in ownership of the land. The County may also require the owner to file an amended application. Failure to provide notification may result in a civil penalty of up to \$100. It is strongly recommended that you contact all parties involved in the transfer, notifying them that the property is enrolled in Clean and Green.

42. DOES THE RECENT CLEAN AND GREEN AMENDMENT (ACT 235 OF 2004) APPLY TO LANDOWNERS ENROLLED IN CLEAN AND GREEN PRIOR TO THE DATE IN WHICH ACT 235 WENT INTO EFFECT?

Yes. The amendment applies to all landowners and lands enrolled in the Clean and Green program regardless of the date the lands were enrolled; however, landowners are not required to submit a new application to receive the benefits that the Act provides, unless the land no longer meets the minimum requirements for eligibility in Clean and Green. Periodically, County assessors are responsible for reviewing the eligibility of Clean and Green properties.

43. DO THE PROVISIONS OF THE CLEAN AND GREEN ACT TAKE PRIORITY OVER LOCAL ZONING OR SUBDIVISION ORDINANCES?

No. Nothing in the Clean and Green Act voids or limits the requirements that the owner of enrolled land must meet under other state laws or under local zoning or land subdivision ordinances.

44. WHAT HAPPENS TO THE CLEAN AND GREEN STATUS OF MY PROPERTY IF I DIE?

The death of the owner of enrolled land should not, under normal circumstances, cause a termination of enrollment of the property in Clean and Green. The new owner will continue to receive a Use Value assessment for the property and will be subject to the terms defined in the Act. If the owner's death causes the land to be subdivided among immediate family members and one or more of the subdivided tracts do not meet the minimum requirements of the Act, a rollback tax will not be imposed on those tracts that no longer qualify.

45. IS THERE ANY CONNECTION BETWEEN THE CLEAN AND GREEN PROGRAM, THE AGRICULTURAL SECURITY AREA PROGRAM, AND THE AGRICULTURAL LAND PRESERVATION PROGRAM?

No. These are all separate programs that attempt to preserve Pennsylvania agricultural and forest land.

Clean and Green program provides assessment relief to a landowner who does not use his land for residential development or for commercial purposes other than agricultural or forest production.

Agricultural Security Area program is a cooperative effort of property owners and local governments to form a security area for agricultural land. The agricultural security area formed as a result of this effort help to prevent use of local government authority to impose ordinances to restrict agricultural activities or condemn farmland within agricultural security areas.

Agricultural Land Preservation program allows state and local governments to purchase conservation easements of farms in agricultural security areas to preserve these farms for future use in agricultural production.