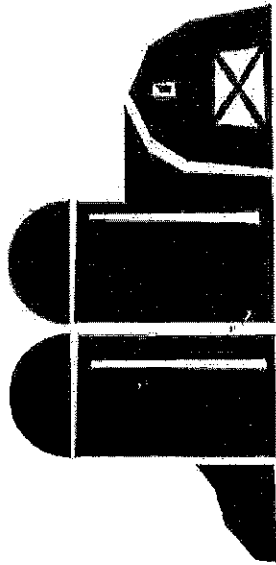


UNDERSTANDING THE
CLEAN AND GREEN PROGRAM



Fulton County, Pennsylvania

The Fulton County Assessment Office
116 West Market Street, Suite 202
McConnellsburg, PA 17233
Phone: (717) 485-3208

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 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.

GUIDELINES FOR UNDERSTANDING CLEAN AND GREEN

The *Clean and Green* program does not reduce the amount of taxes used to fund the county, municipality or school district. The taxes to the person enrolling in the *Clean and Green* program are reduced. This means that other taxpayers in the community are paying higher taxes to make up for the reductions to the *Clean and Green* properties. *Clean and Green* participants have a responsibility to follow the guidelines set by the rules and regulations and the law.

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 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, further amended by 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 farmlands, woodlands, and the future heritage of our land.

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

Property owners whose lands are eligible for *Clean and Green* receive a different tax assessment value than other landowners. 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 who 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 land or woodland. *Use Value* 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 land or woodland 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. The *Use Values* published by the Department reflect the maximum values for each subcategory of land (based on soil type) enrolled in *Clean and Green* under the three (3) major categories (*Agricultural Use*, *Agricultural Reserve*, and *Forest Reserve*). Counties may not assign a higher *Use Value* for any land subcategory than the value published by the Department. Counties may apply lower *Use Values* than the Department's published values to any one or to all land subcategories 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 non-farm 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 out-buildings. The regulations to the *Clean and Green Act* require counties to use a particular method (referred to as the "extraction method") to calculate the contributory value of farm and outbuildings. Valuation of these buildings under a contributory value methodology may cause the tax assessment value of these buildings to be lowered. If a county is already using this methodology, further reductions will not likely occur.

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 OUT-BUILDINGS ELIGIBLE FOR USE VALUE ASSESSMENT?

It may be. If the majority of your property is actively farmed and enrolled under the *Agricultural Use* value. If the majority of your property is enrolled under *Forest Reserve* or *Agricultural Reserve* the base acre will be valued 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 restriction on the daily management on 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*.

However, the tax relief your property receives under the *Clean and Green* program is conditioned upon your keeping your land in agricultural, open space, or forest land use. If you enroll your property in *Clean and Green* and then change the property's use to one which is not authorized under the *Clean and Green Act*, you will be required to repay roll-back taxes, all or a portion of the tax relief that enrollment in *Clean and Green* has provided, plus interest. Keep in mind that a change in use of even a portion of the property to a use not authorized under the *Clean and Green Act* will likely trigger liability for roll-back taxes and interest on the entire property enrolled.

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

The *Clean and Green* program does not require you to reapply each year for *use value* tax assessment. Once a property is enrolled in the program, it will remain in the program *continuously*, at least until the property owner changes the use to one which is not authorized under the *Act*. If the owner uses any portion of his or her *Clean and Green* enrolled land in a manner which is not authorized by the *Clean and Green Act* and which triggers roll-back taxes on the entire portion of the owner's land, the owner has the option of terminating the *Clean and Green* assessment by filing a notice of termination within 30 days of paying the roll-back taxes or continuing the *Clean and Green* assessment of the remaining portion of his or her land that continues to qualify. The county assessor will be responsible for adjusting the property's tax assessment value to reflect those changes in value 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*. If the property was previously vacant land and enrolled under Forest Reserve or Agricultural Reserve, the base care would be added which would be an increase in the land value.

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 your 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 your county Assessment Office. Please see the last page of this booklet for the Assessment Office address and telephone number.

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

There may be a one-time application fee for enrolling your land in *Clean and Green*. There will also be a fee for recording your approved application and recording any future amendments to your application which are approved. The county must refund your recording fee if your application is not approved. See the last page of this booklet for the fee schedule.

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

In order for you to receive the tax benefits provided under the *Clean and Green* program for the next tax year, you must submit an application by June 1st of the current year. If your county conducts a county-wide reassessment of properties during the year, the deadline for submitting an application is extended to October 15 or 30 days after the final order of assessment values issued by the county's Board of Assessment Appeals, whichever date will occur earlier in the year. If your application is submitted after the application deadline, your application will still be considered for approval in *Clean and Green*; however, you will not receive the tax benefits on your property until the second tax year after the year in which you submitted your application. See the last page of this booklet for your county's deadline for enrolling in the *Clean and Green* program.

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 use of the land to meet the minimum requirements of one or more of the three (3) types of uses that the *Act* identifies as eligible for *Clean and Green* assessment. These types are *Agricultural Use*, *Agricultural Reserve*, and *Forest Reserve*.

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. *Agricultural Use* lands will also include farm woodlots that are contiguous to the owner's agricultural land, regardless of whether these woodlots meet the minimum acreage requirements that apply to *Forest Reserve* lands. The *Act* provides that "agricultural production" also includes enrollment of your land in a federal soil conservation program. The *Act* also recognizes that your land 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, non-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 his or her property.

Forest Reserve lands are lands that 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 SEPARATELY DEEDED LAND TRACTS, MAY I ENROLL ALL THESE TRACTS IN *CLEAN AND GREEN*?

If your tracts are being used in a manner that would allow them to qualify for *Clean and Green*, you may enroll all of your tracts in *Clean and Green* and may apply for all of these tracts in a single application. Remember that any change in use to one which is not authorized by the *Act* may result in roll-back taxes being charged on the entire enrolled parcel, as defined by the application. If each deed 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 SEPARATELY DEEDED TRACTS IN *CLEAN AND GREEN*?

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

20. IF NONE OF MY DEEDED CONTIGUOUS LAND TRACTS 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 land tracts that together meet the minimum requirements of eligibility is entitled to enroll these tracts for *Clean and Green* assessment, even though each of the tracts 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* and the owner may submit an amended application for inclusion of the acquired land in *Clean and Green*. An additional recording fee may apply.

Page 7

22. MAY I INCLUDE LAND TRACTS THAT DO NOT ADJOIN OTHER LAND TRACTS ON THE SAME *CLEAN AND GREEN* APPLICATION?

No. It is suggested that the property owner submit separate applications for land tracts that are not connected to other tracts that you are seeking to enroll in *Clean and Green*. However, the land that is separate must itself meet the requirements of eligibility in order to be approved for enrollment in *Clean and Green*.

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

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.

Page 8

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

24. IF I OWN LESS THAN 10 CONTIGUOUS ACRES OF LAND AND I WANT TO ENROLL MY LAND UNDER THE "AGRICULTURAL USE" CATEGORY, 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. However, before the county may impose this requirement, the county assessor must notify the owner, in writing, and must clearly state in the notice why the additional documentation is necessary and identify the particular information that the owner needs to submit. The county may not require the owner to demonstrate more than once a year that his or her land meets the income threshold requirement for *Clean and Green* assessment.

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

The *Act* identifies the production of the following commodities as agricultural production that will qualify land for *Clean and Green* as Agricultural Use:

- Agricultural products
- Aquacultural products
- Floricultural products
- Horticultural products
- Livestock and 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 of products commonly raised or produced on farms which are: intended for human consumption, transported, or intended to be transported in commerce

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

26. IF ENROLLED IN *CLEAN AND GREEN* AS "AGRICULTURAL USE," DOES MY LAND STILL QUALIFY FOR *CLEAN AND GREEN* ASSESSMENT IF SOMEONE ELSE FARMS THE LAND?

Yes. Recent amendments to the *Clean and Green Act* recognize that 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. Agricultural production by the owner of the land is not a requirement for eligibility of land in *Clean and Green*.

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

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

28. IF MY LAND IS ENROLLED UNDER *CLEAN AND GREEN* AS "AGRICULTURAL RESERVE," TO WHAT EXTENT MUST MY LAND BE KEPT OPEN TO THE PUBLIC?

The *Clean and Green Act* requires lands enrolled under *Clean and Green* 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 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 persons' safety. These restrictions might include limiting access to the land to pedestrians only, prohibiting hunting or carrying or discharge of firearms on the land, prohibiting entry where damage to the land might result, or other reasonable restrictions. Landowners whose properties are enrolled under *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. The reasons for limiting public access must be based upon fact and be acceptable to 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 OR OTHER COMMERCIAL BUSINESS ENTERPRISE?

Yes, with some conditions. 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 certain members of the landowners' family (such as parents, grandparents, children and grandchildren) and the business activity does not permanently prevent agricultural production on the land. Roll-back taxes and interest may be imposed on the portion that is used for commercial business, and that portion may be assessed at *Fair Market Value*, rather than *Use Value*.

30. MAY I EXPAND 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 after enrolling in *Clean and Green*, a non-agriculturally-related business or a rural enterprise incidental to the operational unit is started or expanded on the land in addition to the two (2) acres, a violation would occur and a roll-back tax would be charged on the entire enrolled acreage.

31. WHAT IS MEANT BY THE TERM, INELIGIBLE LAND?

Act 319, as amended by *Act 156*, 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

ROLL-BACK TAXES AND LAND TRANSFERS OF *CLEAN AND GREEN* LAND

32. WHAT IS A ROLL-BACK TAX AND HOW IS IT IMPOSED ON OWNERS OF *CLEAN AND GREEN* LAND?

A roll-back tax is imposed for changes in use of *Clean and Green* property other than the uses normally authorized under the *Clean and Green Act*. The roll-back tax is the difference between the real estate taxes (county, municipal and school district) 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 roll-back tax is imposed on the entire portion of contiguous land enrolled under the application if the change in use is not authorized in the *Act*.

A more limited assessment of roll-back tax is imposed for certain land subdivisions and uses that are authorized under the *Act* but for which the *Act* requires a roll-back tax to be paid. For authorized changes, a roll-back tax will only be imposed on the land affected by the change. Simple interest at 6%, annually, will also be imposed on the roll-back taxes due as a result of a change in use to an ineligible use. If the property has been enrolled in *Clean and Green* for more than seven (7) years, the *Act* limits the amount of roll-back tax that is assessed to the current year and six (6) previous years in which the land was enrolled in *Clean and Green*.

33. IF I SELL ALL OF CONTIGUOUS LAND TO ANOTHER PERSON, WILL THE SALE TRIGGER A ROLL-BACK TAX IF THE LAND SOLD IS ENROLLED IN *CLEAN AND GREEN*?

No. A transfer of land to another owner will not trigger a roll-back 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 pays the roll-back tax because the person who caused the violation is responsible.

34. MAY I SUBDIVIDE OR SELL PART OF MY LAND THAT IS CURRENTLY ENROLLED IN *CLEAN AND GREEN* WITHOUT CAUSING A ROLL-BACK TAX?

It depends. If the subdivision meets the requirements of a "separation," the subdivision will not trigger a roll-back tax. If the subdivision meets the requirements of a "split-off," the subdivision will only trigger a roll-back tax on the portion of the land that is subdivided. If the subdivision fails to meet the requirements of either a separation or split-off, the subdivision will trigger a roll-back tax on the entire portion of contiguous land enrolled in *Clean and Green*.

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 *Act* allows the owner to split off the minimum lot size in cases where the local zoning ordinance requires a minimum lot size between two and three acres). 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 land may not use the land for any purpose other than uses associated with land enrolled in *Clean and Green* (*Agricultural use, Agricultural Reserve, or Forest Reserve*) and 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 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 which he or she will occupy. A roll-back tax will be triggered by the failure of the owner of separated or split-off land to meet the requirements that the *Act* imposes.

36. WHAT IF I PERFORM A PROPER SEPARATION OR SPLIT-OFF OF MY *CLEAN AND GREEN* LAND AND THE OWNER OF THE SEPARATED OR SPLIT-OFF TRACT VIOLATES THE REQUIREMENTS THAT THE *ACT* IMPOSES ON SEPARATED OR SPLIT-OFF TRACTS? WILL I BE LIABLE FOR ROLL-BACK TAXES THAT THE SEPARATED OR SPLIT-OFF OWNER TRIGGERS?

No. Recent changes to the *Clean and Green Act* make it clear that the owner of *Clean and Green* lands who has performed a proper separation or split-off is not liable for any roll-back tax that is triggered by the owner of the separated or split-off tract. If the new buyer changes the use to an ineligible use, the buyer will pay the roll-back tax on all parcels included on the original application.

37. MAY I OPT OUT OF THE *CLEAN AND GREEN* PROGRAM WITHOUT A ROLL-BACK TAX EVEN IF I DO NOT CHANGE THE USE?

No. The only way out of the program is to change the use which triggers a roll-back tax. Owners of *Clean and Green* enrolled land are required to notify the county assessor at least 30 days in advance of any change in land use to one not authorized under the *Act*. This letter of intent will trigger a roll-back tax. After paying the roll-back tax, the owner has the option of whether or not to continue in the program (eligible land only) or to remove all enrolled land out of the program. Remember that the maximum period a roll-back tax may be charged is for the most recent seven (7) years.

OTHER INFORMATION YOU SHOULD KNOW ABOUT CLEAN AND GREEN

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

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

- A. Transfers to local governments and school districts
- B. Transfers to volunteer fire companies and ambulance services
- C. Transfers to charitable organizations for recreational use
- D. Transfers to churches
- E. Transfers to non-profit corporations for cemetery use
- F. Transfers to non-profit corporations for recreational trail use
- G. Leases to companies for wireless telecommunications use

The requirements and limitations that apply, the resulting tax consequences that vary with each type of transfer, and 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.

39. MAY I APPEAL THE COUNTY'S DETERMINATION OF MY CLEAN AND GREEN VALUE JUST AS I CAN APPEAL THE COUNTY'S DETERMINATION OF FAIR MARKET VALUE?

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

40.

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 land. 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 roll-back 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, roll-back taxes, or civil penalties will result in a lien, by authorization of the Tax Claim Bureau.

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

42.

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 *Clean and Green* land to notify the county assessor at least 30 days in advance of any change in land use to one not authorized under the *Act*. Failure to provide notification may result on an assessment of a civil penalty of up to \$100.

43.

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 THE 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.

44. 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 *Clean and Green* land must meet under other state laws or under local zoning or land subdivision ordinances.

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

The death of the owner of *Clean and Green* 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 also be subject to the terms defined in the *Act*. If the owner's death causes the land to be subdivided exclusively among certain members of the deceased owner's family (such as parents, grandparents, children and grandchildren) and one or more of the subdivided tracts do not meet the minimum requirements for *Clean and Green*, a roll-back tax is not imposed on the tracts that no longer qualify for *Clean and Green*.

46. 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.

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

B. The 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 helps to prevent use of local governmental authority to impose ordinances to restrict agricultural activities or condemn farmland within agricultural security areas.

C. The 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.

Eligibility of land for *Clean and Green* assessment is not dependent upon the landowner's participation in the Agricultural Security Area program or agricultural land preservation program.

47. ARE THERE ANY CIVIL PENALTIES FOR VIOLATION OF *ACT 319*?

Yes. 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 regulations promulgated under this *Act*. Typical penalties would include failure to notify the assessor of a change in use or status of ownership 30 days prior to the change. A change in use between use categories is not subject to a civil penalty. Property owners have ten (10) days to file an appeal of a notice that they are being charged a civil penalty.

COUNTY-SPECIFIC INFORMATION

48. WHAT IS THE COST TO ENROLL IN THE *CLEAN AND GREEN PROGRAM*?

There will be a one-time, non-refundable application fee of \$40.00. There will also be a recording fee of \$39.00. The recording fee will be refunded if the application is denied.

49. WHERE DO I GET AN APPLICATION, WHERE DO I APPLY?

You may request an application in writing or by telephone, you may pick up an application from the Fulton County Assessment Office, or you may print an application from the Fulton County Assessment Office webpage. The office address is: Fulton County Assessment Office, 116 West Market Street, Suite 202, McConnellsburg, PA 17233, telephone (717) 485-3208. The web address is: <https://www.co.fulton.pa.us/assessment.php>

50. WHAT IS THE DEADLINE FOR ENROLLING 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 county-wide reassessment, the deadline is extended to October 15, or 30 days after final order of the Board of Assessment Appeals.

51. WHERE MAY I OBTAIN FURTHER INFORMATION?

There are (3) official publications which you may obtain from your state representative. These are (1) *Act 235 of 2004*, (2) Rules and regulations of the *Clean and Green* program (developed by the Department of Agriculture) and (3) *Clean and Green* law. These documents may also be obtained at www.courthouseonline.com or www.pda.state.pa.us.