

ACT 319

QUESTIONS AND ANSWERS

COUNTY OF WARREN

Assessment Office

204 Fourth Avenue

Warren, PA 16365

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GUIDELINES TO UNDERSTANDING ACT 319 (AS AMENDED BY ACT 156 OF 1998)

When a county embraces an **Act 319** program, it is required by state law to place two values on each parcel of land that is ten acres or more in size. These values are known as the Fair Market Value and the Agricultural-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 or the Agricultural-Use Value, depending upon whether or not the property owner has enrolled their property in the **Act 319** program.

The decision to enroll should be based upon factual information about the **Act 319** law and its requirements for eligibility. Each property should make an effort to understand the various aspects of the **Act 319** program and make this decision in their best interest. The following information has been provided to answer questions and help property owners understand this program and its impact. These are the most frequently asked questions about Fair Market Value and **Act 319**.

1. WHAT IS ACT 319?

Act 319-Pennsylvania Farmland and Forest Land Assessment Act (**Clean and Green**) is a state law passed in 1974 and amended in 1998 by Act 156 that allows land parcels which are 10 acres or more in size and which are devoted to agricultural, and forest land use, to be assessed at value for that use rather than Fair Market Value. The intent of the act is to encourage property owners to retain their land in agricultural or forestland use, and to provide some tax relief to land owners.

2. WHO BENEFITS FROM ACT 319?

Everyone benefits, either directly or indirectly, from this agricultural land preservation program. The property owners benefit directly by receiving some tax relief, as long as they agree not to convert their land to housing developments or other types of non-agricultural, commercial businesses. The general public benefits from the preservation of our farmlands, woodlands, and the future heritage of our land.

3. WHAT IS FAIR MARKET VALUE, AND HOW IS IT DETERMINED?

Fair Market Value is determined in the marketplace, where a willing seller sells to a willing buyer in an arms-length transaction. The process of determining market values involves the analysis of recent sales within the county. Only valid sales are used which reflect transactions on the open market where there is no pressure to either buy or sell, and where the property was on the market for a reasonable period of time. These validated sales are used to predict the probable selling price or current value of each property at a given point in time. Assessment law says that the real estate tax must be based on the value of the real estate. That is why it is called an Ad Valorem tax,

meaning, "at value". This value is based on an appraisal, backed by sufficient evidence to support the conclusion of value.

4. WHAT IS THE AGRICULTURAL-USE VALUE, OR CLEAN AND GREEN VALUE, AND HOW IS IT DETERMINED?

The Agricultural-Use Value does not consider all uses or the highest and best use of the property. The Agricultural-Use Value considers only the worth of that property for agricultural purposes such as tillable land, woodland and pastureland. The basis for determining the Agricultural-Use Value comes from both the Market Approach and the Income Approach to establishing value. **Act 319** law also states that the Agricultural-Use Value must reflect the potential of the individual parcel to produce, based upon the soil types and their productivity. Another way to explain Agricultural-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. A productivity index for each land category is calculated, and is used to equalize the value, based on the potential of each parcel to produce.

5. DO I GET A TAX REDUCTION ON MY BUILDING(S) UNDER ACT 319?

No. The **Act 319** program benefits only the land portion of the assessment. The value of the residence, farm buildings, other outbuildings and agricultural-commercial buildings, as well as the ineligible amount of land required to support the building(s) will not be affected by **Act 319**. The Fair Market Value of buildings is then added to the Agricultural-Use Value for land, to arrive at the total Agricultural-Use Value for the property.

Example: (these values are for demonstration purposes only)

Full Market Value of a Parcel with Buildings

Building Assessment:	\$ 55,000
Land Assessment:	\$ 92,293
Total Assessment:	\$147,293

Act 319 Value of a Parcel with Buildings

Building Assessment:	\$ 55,000
Land Assessment:	\$ 44,981
Total Assessment:	\$ 99,981

6. WHAT DO YOU MEAN BY AGRICULTURAL USE, AS DEFINED BY THE LAW?

The term, "agricultural use", is a very broad term, and actually means: all use other than housing developments or non-agricultural, commercial business activities. This means that the land under **Act 319** can be forestland, tillable land, or non-tillable land. It actually includes any land use, which promotes its natural condition or even the reversion of the land to its natural state.

7. WHY DOESN'T THE COUNTY VALUE FARMLAND AND RURAL LANDS AT A SELECTED LOWER RATE THAN THE ACTUAL FAIR MARKET VALUE?

This would be a violation of assessment law and would provide the basis for appeals and court actions. All classes (agricultural, residential, industrial, and commercial) must be valued under assessment law at Fair Market Value. There is no exception, except for that which is provided under law such as **Act 319**.

8. DOES THIS AGRICULTURAL-USE VALUE AFFECT ALL OR PART OF MY TAXES?

The assessed value, whether Fair Market Value or Agricultural-Use Value, is the value that is used by all taxing districts, including county, schools, and municipalities. If a property is approved under **Act 319**, then the Agricultural-Use Value will be used to compute all real estate taxes.

9. ARE RURAL PROPERTY OWNERS BEING FORCED INTO THE ACT 319 PROGRAM?

The **Act 319** law provides an option or an opportunity for tax relief if the property owner simply agrees not to develop or commercialize their land. If the property owner chooses not to participate in **Act 319**, then taxes will be paid on the Fair Market Value, as required under assessment law. If an owner chooses to help preserve rural land, they will receive the tax benefits or tax relief, as long as they agree to preserve the land. The property owner may change the use of the property in their own best interest at any time, but will be subject to rollback taxes.

10. MAY I APPEAL THE CLEAN AND GREEN VALUE THE SAME WAY THAT I CAN APPEAL THE FAIR MARKET VALUE?

Yes. Property owners have the right to appeal to the Board of Assessment Appeals and the Court of Common Pleas under the same appeal rights described in assessment law. They may also appeal the decision to approve or disapprove their **Act 319** application.

11. IF I PARTICIPATE IN ACT 319, DO I LOSE MY RIGHTS TO USE THE LAND AS I WISH?

Absolutely not. **Act 319** has no provisions for supervision or interference with the individual rights of property owners to do whatever they wish with their land. It is simply an agreement or covenant that as long as the property owner does not change the use, then they may receive the benefits provided under **Act 319**. No state or county authority has any right, under the law, to interfere or direct your personal use of the land. The only issue is that when you choose not to preserve the land under the terms of **Act 319**, you will lose the rights of the preferential assessment, and may be liable for a

rollback tax (plus interest) on the property for the period of time in which you were in the program or the most recent seven years, whichever is less.

If you sell any of your land enrolled under **Act 319**, you **must** file a Notice of Conveyance at least **30 Days Prior** to any such conveyance.

12. MUST I FARM THE LAND, CUT BRUSH, MOW FIELDS, ETC. IN ORDER TO KEEP IT ELIGIBLE FOR ACT 319?

No. You may actively farm the land, lease it, or let it revert to its original state. The only issue that could effect a change in eligibility will be your decision to commercialize and develop your land.

13. HOW LONG WILL MY LAND BE IN THE ACT 319 PROGRAM?

When a property owner applies and is approved under **Act 319**, that property will remain in the program continuously. Should the property owner change the use to an ineligible use, the county is required to change the assessment status from **Act 319** to **Full Market Value**. If the use never changes, then there will never be a rollback tax charged.

14. WHAT IS THE ROLLBACK TAX, AND HOW WILL IT BE CHARGED?

The key to understanding when a rollback tax will be charged is when the use actually changes. The question as to who pays the tax is based on who owns the land at the time of the change in use or removal from the program. There is no rollback tax charged when a property is sold or transferred to another party. Also, remember that the maximum period a rollback may be charged is for the most recent seven (7) years. A six (6) percent simple interest charge will be imposed on the rollback tax amount. The purpose of the rollback tax is to provide an incentive to preserve the agricultural land and to prevent abuse of this land preservation program. In addition, a civil penalty of up to \$100.00 may be assessed for violations of the Act.

15. WHAT HAPPENS TO THE ACT 319 STATUS IF I DIE?

Nothing will change, upon the death of the owner, with regard to **Act 319**. The **Act 319** agreement stays with the estate and is attached as a covenant to the property. If the estate or future owners continue with the same use, as provided under **Act 319**, the taxes will continue to be calculated on the Agricultural-Use Value. If the use changes, a rollback tax, plus interest, will be charged.

The Assessment Office is not able to provide more specific information on other issues pertaining to estate planning aside from the areas covered in the brochure.

16. DOES THE ACT 319 PROGRAM PUT A LIEN ON MY LAND?

No. What actually happens is this: The property owner will apply to the Assessment Office on the approved application. If the application is approved, it must be recorded, as required by law, in the Recorder of Deeds Office. Recording an agreement between the property owner and the county does not put a lien on the property, but it does provide public notice that the parcel is under the terms of Act 319; therefore, informing a future buyer that if they wish to change the use to a non-conforming use, they could be incurring a rollback tax for which they would be liable. In the event that a rollback tax is charged, but is not paid by the property owner, it could become a lien on the property under delinquent tax laws. Tax liens, in Pennsylvania, have a top priority.

17. WHAT IS THE COST TO ENROLL IN THE ACT 319 PROGRAM?

Act 319 states that the agreement must be recorded; therefore, the property owner will be required to pay for the cost of recording. These charges are part of the application process. The fee for enrolling in Act 319 is \$35.00 (this includes the cost of recording the application in the Recorder of Deeds). The applications must also be notarized by a Notary Public, which can be done here at the Court House in the Prothonotary Office.

18. MUST I HAVE 10 ACRES OR MORE TO BE ELIGIBLE FOR ACT 319?

The law states that you must have 10 acres or more to be eligible under Agricultural-Use, Agricultural Reserve, or Forest Reserve; however, there is an exception. If the property owner has less than 10 acres, but can verify that the land is now devoted to agricultural use and has generated \$2,000 annual gross income from agricultural commodities for the past three (3) years, then the application may be considered. Proof of \$2,000 annual gross income will be required.

19. I CURRENTLY OWN MULTIPLE PARCELS OF LAND IN WHICH THE TOTAL ACREAGE MEETS THE ACT 319 MINIMUM SIZE REQUIREMENTS. CAN I ENROLL IN THE PROGRAM?

Yes. If the multiple parcels are contiguous and the total acreage is ten or more you may enroll in Act 319.

20. WHAT ARE THE MAIN ELIGIBILITY REQUIREMENTS TO BE APPROVED FOR ACT 319?

If the size requirements are met, then the use requirements are determined. If this parcel meets the definition of agriculture use as defined in #6, or if this parcel has forest land and is stocked with trees of any size, and is capable of producing wood products in excess of 25 cubic feet per acre, each year, then it meets this eligibility requirement. There is a category called Agricultural Reserve Land that requires the land to be non-commercial, open to the public for recreation, at no charge or fee, with no discrimination against any person using the land; however, this category is seldom used or needed

because every parcel can usually meet either the Agricultural-Use or Forest Land requirement. The only other factor in eligibility is whether or not the property owner or anyone else is currently conducting a non-agricultural, commercial business on this property (in excess of two acres). Some property owners may wish to deed larger commercial enterprises off as a separate parcel; therefore, not affecting the land placed under **Act 319**. The property owner may have a non-agricultural use on the parcel when enrolling the ground in **Act 319**. For example, the parcel is 100 acres and 25 acres is a mobile home park and the remainder is agricultural, the 75 acres would still be eligible for **Act 319**. The assessed value of the trailer park would be at the Fair Market Value.

21. MUST I OPEN MY LAND TO THE PUBLIC AS A CONDITION FOR ENROLLING?

No. Under Agricultural-Use or Forest Reserve, you need not open your land to the public. It is only the Agricultural-Reserve land category, which could result in this requirement; however, it is seldom, if ever, needed as a way to enroll in **Act 319**.

22. WHAT IS THE DEADLINE FOR ENROLLING IN ACT 319?

The annual deadline for enrolling in the **Act 319** program is **June 1st**. The application becomes effective for the tax year beginning the following **January 1st**. There is an open enrollment period each year between March 1 and June 1.

23. DO THE PROVISIONS OF ACT 319 TAKE PRIORITY OVER LOCAL ZONING OR SUBDIVISION ORDINANCES?

No. The provisions of the **Act 319** law reflect what may be done under **Act 319** in order to retain the land in the program. Nothing in the law takes any priority over zoning or subdivision ordinances, and property owners may find fewer or greater limitations imposed within their jurisdictions than by **Act 319**.

24. MAY I BUILD A HOUSE ON MY LAND WITHOUT IT AFFECTING ACT 319?

Yes. You may build a personal residence or any other building related to your farm enterprise, as long as it is not non-agricultural, commercial, or a housing development.

25. MAY I SUB-DIVIDE OR SELL ANY PART OF MY LAND WITHOUT CAUSING A ROLLBACK TAX?

Yes. You may sell portions of your land under some conditions without causing a rollback tax. There are two types of subdivisions. The first is called "SEPARATION", and is permitted if each new parcel created is 10 acres or more and thus meets the requirements to remain in **Act 319**. The remainder of the original property must also continue to meet these requirements. If the new buyer changes the use, the buyer will pay the rollback tax on the entire original tract.

For example: A property owner enrolls a 100-acre tract of land in **Act 319**, and subsequently sells off three 25-acre tracts of land. The use does not change, therefore, there is no rollback tax; however, one of the buyers decides to build an apartment building. They have changed the use, and now the rollback tax will be charged on the entire tract of land as it was originally enrolled. The owner of the apartment building will pay the rollback tax on the entire 100 acres of land. The remaining 2 tracts of 25 acres each will continue to receive preferential assessment, and the preferential assessment of the Apartment owner ends.

Another type of subdivision or transfer is called a "SPLIT-OFF". A permissible split-off cannot exceed two acres a year, the use cannot change, except as noted below, and the total of all splits cannot exceed 10 percent of the total property enrolled or 10 acres, whichever is less. The two-acre split-off per year is also not cumulative. A maximum of only two acres can be split off during any single calendar year, even if the property has been enrolled for several previous years and experienced no split-off activity. These split-offs may remain in agricultural use or be used for residential use, as long as the person owning the property is building a house, which they will personally occupy. No speculative building projects would be permitted without causing a rollback tax to be charged. In the event that the required minimum lot size, under the municipal zoning ordinance, is more than two (2) acres, a split-off may exceed two (2) acres, up to a maximum lot size of three (3) acres. Proof of this zoning requirement **must** be presented with the filing of **Act 319 Notification of Conveyance** form, thirty (30) days **prior** to any conveyance of the split-off. Rollback taxes will be due on the split-off portion of the property.

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

Applications are available at the **Warren County Assessment Office**, located at:

**Court House
204 Fourth Avenue
Warren, PA 16365
(814) 728-3420**