

Act 43 1981 as amended by Act 96 of 1994

Introduction

The Agricultural Security Area program began in 1981 as a tool for strengthening and protecting agriculture in Pennsylvania. Farm landowners, working together, initiate the process of establishing such Areas in which agriculture is the primary activity. Participating farmers are entitled to special consideration from local and state government agencies, and other "nuisance" challenges, thus encouraging the continuing use of the land for productive agricultural purposes.

The Agricultural Security Area Law (Act 43 of 1981) was amended in November 1994 (Act 96 of 1994) to modify and clarify the procedures for setting up Agricultural Security Areas. These procedural revisions will make it easier to follow a proposal to create an agricultural security area through the formation process. Record keeping should also be improved with the new requirement for notification of agricultural security areas creation. With regard to the agricultural conservation easement program, which is also part of Act 43, several changes were made in the method for calculating the allocation of funds to counties.

Key Features

- * Initiated by petition of farm landowners
- * Minimum area of 250 total acres (within municipality)
- * May include non-adjacent farmland parcels over 10 acres
- * Township or borough level program
- * Seven year lifetime, then reviewed
- * Parcels may be added during seven year period
- * Participation by landowners is voluntary
- * Use of land is not restricted (not a land use law)
- * Participants receive special consideration regarding local and state ordinances and legal challenges affecting farming.
- * Participants eligible to sell agricultural conservation easements

Creating Agricultural Security Areas

Setting up an Agricultural Security Area is a simple process with six basic steps.

1. The process of establishing an Agricultural Security Area is initiated by petition of owners productive farmland totaling at least 250 acres. The land to be included must have soils conducive to agriculture and be used for production of crops, livestock, livestock products, horticultural specialties and timber.

The petition is submitted by certified mail with return receipt to the local government unit with the names, addresses, tax parcel number, and number of acres in the proposed area. A map showing the farms to be included is also submitted. Non-adjacent parcels of at least 10 acres may be included. A proposed Area located in more than one government unit is submitted for approval to each governing body.

2. Within 15 days of receiving a petition the governing body gives public notice of the proposal to create an Area. Basic information is printed in a newspaper and posted in five locations, with an invitation for objections and modifications (and additional sign-ups) to be submitted to the governing body and planning commission within a 15 day period following public notice.

3. After the 15 day comment period, the proposal with objections and modifications, is referred to the local planning commission and a specially formed Agricultural Security Area Advisory Committee, which is made up of three active local farmers, one citizen and a member of the governing body. Both groups have up to 45 days to review the proposal and make recommendations to the governing body.

4. A public hearing on the proposed Area must be held by the governing body. Modifications to the Area may be made up to 7 days before the public hearing is advertised.

5. Following a public hearing the governing body may decide to adopt or reject the proposal, or any modifications to it. The Area, if created, has a 7 year lifetime and is reviewed near the end of the seventh year.

The governing body must act within 180 days from the official submission date. If the governing body fails to decide in 180 days the Agricultural Security Area is automatically adopted as originally petitioned (without modification.) Within 10 days of its creation description of the Area must be filed with the recorder of deeds and both the local and county planning commissions. The Secretary of Agriculture must also be notified of the formation of the Area.

If a proposal is rejected or modified, the governing body must provide the landowners with a written decision stating the reasons for its action.

6. Farmland may be added to an existing Agricultural Security Area during its seven year lifetime. Any proposal to add land must follow the procedures outlined for the establishment of an Area (1-5.)

If during the seven year life of an Area, 10 percent of the land is diverted to nonagricultural use, the governing body may call for an interim review. The Advisory Committee and local and county planning commissions make recommendations to the governing body which may decide to modify or terminate the Area.

Benefits of Agricultural Security Areas

When an Agricultural Security Area is formed, it entitles the participating landowners to special consideration from the local governing body and state government agencies. The local government unit may not impose ordinances that unreasonable restrict farm structures or practices within the Area, nor may normal farming operations and practices be deemed "nuisances" in a nuisance ordinance or suit. State government agencies must also modify their administrative regulations and procedures to encourage viable farming in Agricultural Security Areas.

Land condemnations within Agricultural Security Areas, proposed by commonwealth or local agencies (such as municipal authorities, school boards and governing bodies), must be reviewed and approved before land may be condemned. In addition, all state-funded development projects which affect an established Area must be reviewed. Modifications may be proposed to ensure the integrity of the Agricultural Security Area.

New Features as of 1994

Proposals (petitions to create a new agricultural security area, or add land to an existing one) must be submitted by certified mail with return receipt requested. The return receipt serves as notice that the petition has been received by the governing body. The date the return receipt is signed becomes the official submission date of the petition.

Occasionally proposed agricultural security areas are located in more than one local government unit. In these cases petitions must be submitted to and approved by each governing unit affected. The amendment specifically allows the governing bodies to cooperate in reviewing these petitions, including providing joint public notices, forming a joint agricultural security area advisory committee and holding a joint public hearing on the proposal.

Governing bodies are prohibited from charging fees for applying for or reviewing agricultural security areas.

A governing body that rejects or modifies a proposed agricultural security area is required to provide landowners with a written decision within 10 days stating why the proposal was not adopted or was modified. The written decision must include facts, evaluation results, and a discussion of the reasons for the rejection or modification.

Within 10 days of the creation, or addition of land to an agricultural security area, the governing body must file a description of the area with the county recorder of deeds. The

description includes a list of the owners, the tax parcel or account number, and acreage of each parcel included.

Any land that is added to an agricultural security area during its seven year lifetime is reviewed at the same time as the original area.

The Secretary of Agriculture must be notified of newly approved, modified or terminated agricultural security areas within 10 days of action by the governing body. Notification includes: number of landowners, total acreage, and date of governing body action.

The definition of "normal farming operations" is expanded to include the storage and use of agricultural and food processing wastes to feed animals; disposal of manure and other agricultural wastes to improve soil conditions.

If you would like additional information about the Act and how to set up an Agricultural Security Area in your locality, contact your Penn State Cooperative Extension office.

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