How to Purchase Land Protected by an APR

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Where are the 970 APR’s?

https://maps.massgis.digital.mass.gov/MassMapper/MassMapper.html
Types of APR’s

An Evolving History

1) 1981 to 1985- APR’s do not have transfer requirements
   • Can be sold to anyone for any price
   • MDAR has no jurisdiction over sale

2) 1986 to first half of 1994- APR’s include a **Right of First Refusal (ROFR)**
   • MDAR has right to purchase (and assign)
   • No limit on price

3) Second half of 1994 to Present- APR’s include an **Option to Purchase at Ag. Value (OPAV)**
   • MDAR has right to purchase (and assign)
   • Sold at Agricultural Value
Who Can Purchase an APR?

**Farmer**
- an individual, corporation, LLC, or partnership that: (a) owns and operates a farm business; or (b) is employed full time on a Farm for a minimum of two years.
- Must submit supporting documentation
- Must submit Farm Business Plan*

**Beginning Farmer**
- an individual or entity who has less than two years of experience managing or owning a Farm.
- Must submit Farm Business Plan
- Must also submit Financial Plan
What Scenarios Are Exempt from Process?

• In-Family Transfers (Check APR Document)
• Transfer by Will
• Transfer from one Partner to another
How Long Does it Take to Review?

Check the APR Document for Timeline!

Once required documents submitted, up to:

**ROFR**
- 16 Days
- 60 Days

**OPAV**
- 16 Days
- 60 Days
- 120 Days
Potential Outcomes

Once required documents submitted:

- **Waives**
  - Waiver Document Provided
  - Sale Proceeds

- **Exercises**
  - Statements of Interest
  - If multiple qualified applicants, seller chooses

- **Neither Waives or Exercises**
  - Sale Proceeds

- Seller can withdraw at any point up to exercising
- Seller can appeal to ALPC
Transfer Statistics

- 42-Year Program
- 12 Exercised (~1%)
- 4 Assigned

- Sometimes there are no bids, sometimes there are title issues, timing issues, etc.
Resources Available

• Copy of APR Document
• Land Survey
• Appraisal Guidelines
• Farm Business Plan Template
• CPI (Inflation) Formula Guidance
APR Regulations

330 CMR 22: APR Program

- Govern all APR's
- Outlines Transfer Procedures
- APR Document Takes Precedent
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APR Stewardship Program & Technical Support

• Creating Baseline Documentation Reports
• Conducting Monitoring Visits – Federally funded (50) vs. non-Federal (150)
• Reviewing permitting for Department Approvals
• Technical Assistance for Resource Issues
• Compliance/Enforcement of APR
• Succession/Change in Ownership
• Landowner Relations
Agricultural Preservation Restrictions – Uses

- Productive, commercial agriculture 61A
- APR document vintages vary; ask APR Stew for doc & interpretation
- “Normal ag practices” ie. farm road maintenance, excavation above frost line, quiet enjoyment (passive rec/no income), forestry – Permissible
- Many APRs allow for temporary structures, utilities for ag purposes (wells, easements)
- Septic permissible w/approval, limited to ag labor or existing residential
- Everything else = Certificate of Approval
Department Approvals (Permits) - Types

- Ag Structures/Construction Projects
- Alt. Energy Projects
- Excavation/Regrading/Utilities
- Labor Housing/Dwellings
- Subdivision
- Special Permits for non-ag
Dept. Approvals - COA Process

- Landowner applies
- Site visit by Stewardship
- Monthly internal review by APR; recommendations made to Legal and Commissioner’s office
- COA document issued to landowner, within 90 days
- Follow-up for certain conditions or benchmarks within two year period
Policies and Guidelines

- APR Program Guide
- APR Regulations - 330 CMR 22.00
- APR Renewable Energy Policy
- APR Special Permit Policy
- APR Dwelling guidelines
- APR Local Matching Funds
- APR Over the Cap Policy
- Certificate of Approval Application
- APR Requests for a Certificate of Approval to Subdivide Land
- APR Change of Ownership: Sales, Transfers, OPAVs, ROFRs, Waivers
- Template for Farm Business Plan
- Hemp and Marijuana Production on APRs
What requires a Special Permit?

- Commercial, ancillary to primary operation
- 5-year term; similar COA process
- Examples:
  - Use of existing structure for yoga space, birthday parties
  - Outdoor weddings, concerts, movie set location
  - Parking/storage of materials
Criteria for Approval of a Special Permit

- APR in commercial ag production
- Proposed activity “Shall not defeat nor derogate from the purposes”;
- No new construction/structures, no soil removal, no 3rd party contracts that do not include recission clauses
Non-ag activities (Special Permits)

- Revising Special Permit Guidelines now; opportunity for feedback March ’23
- Current guidelines here: https://www.mass.gov/doc/apr-special-permit-policy/download
- Direction is to provide simplified process for APR landowners and clarity around what requires a Special Permit vs. what is considered agritourism or other agriculturally-adjacent income opportunities
Technical Resource Support for APR Landowners

• Boundary survey cost-sharing
• Intersections with DAR Programs Composting Registration, Ag Energy, Food Safety, Business Training, Markets, and Cannabis
• Grant opportunities APR landowners and leasing farmers
• NRCS partnerships provide soil testing, conservation planning, add’l funding (hoop houses, wells, etc.)
• Advocacy with munis, ConComs, other conservation entities
On the horizon

- Farmland Action Plan – pending release
- Listening Sessions statewide spring ’23
- Land Licensing Opportunities
- Succession School
APR Stewardship Staff

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