

**302 KAR 100:030. Procedures for determination of agricultural productivity diminishment in subdivision.**

RELATES TO: KRS 262.900, 262.908, 262.910

STATUTORY AUTHORITY: KRS 262.908, 262.910

NECESSITY, FUNCTION, AND CONFORMITY: KRS 262.908 requires the Purchase of Agricultural Conservation Easement Corporation to implement a Purchase of Agricultural Conservation Easement Program, including the development and promulgation of necessary administrative regulations. KRS 262.910 requires the Purchase of Agricultural Conservation Easement Corporation to approve proposed subdivisions of land restricted by an agricultural conservation easement unless the subdivision will diminish or impair the agricultural productivity of the restricted land. This administrative regulation creates a minimal acreage deemed by the PACE Board beyond which further subdivision would harm the agricultural value of the restricted land.

Section 1. Minimum Acreage Requirement. Any division of land restricted by an agricultural conservation easement that will result in any remaining parcel being less than fifty (50) acres shall be deemed to impair the agricultural productivity of the restricted land.

Section 2. Limit on Number of Divisions. Any further division of restricted land after an approved initial request shall be deemed to impair the agricultural productivity of the restricted land.

Section 3. Election to Waive Subdivision Rights. (1) Any owner of land may elect to expressly waive subdivision rights when the property enters into the Purchase of Agricultural Conservation Easement Program. This election shall be filed with the conservation easement. This election shall be irrevocable once recorded. The PACE Board shall not grant subdivision requests in the future if this express waiver is recorded.

(2) Any owner of restricted lands may record an amendment to his or her easement to expressly waive subdivision rights of property in the Purchase of Agricultural Conservation Easement Program. This election shall be irrevocable once recorded. The PACE Board shall not grant subdivision requests in the future if this express waiver is recorded with the amendment to the conservation easement.

(3) Any subsequent owner of restricted land shall take ownership subject to the recorded election to waive subdivision rights, and that election by the prior owner shall remain valid and binding on the PACE Board. (35 Ky.R. 2836; 36 Ky.R. 324; eff. 8-28-2009; Crt eff 12-10-2018.)