

349.050 Requirements and procedures for stimulating workable coal seam -- Contents and construction of agreements to stimulate -- Request for hearing -- Liability of well operator.

- (1) If any coal interest holder has objected to the proposed stimulation pursuant to KRS 349.020(1), no permit shall be issued to stimulate a coalbed methane well unless the applicant has obtained and filed with the department an agreement between the coal interest holders of any workable coalbed within five hundred (500) horizontal feet of the proposed coalbed methane well to be stimulated and within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated.
- (2) The requirement for an agreement to stimulate in this section shall not be construed to impair, abridge, or affect any contractual rights or obligations arising out of a contract, lease, deed, or similar agreement which provides for the development of coalbed methane and stimulation of workable coalbeds between the applicant and the coal interest holder. The existence of any such contract, lease, deed, or similar document shall constitute a waiver of the requirement to file an agreement to stimulate with the department.
- (3) An agreement to stimulate shall provide:
 - (a) That the coal interest holder has been provided with a copy of the permit application to drill a coalbed methane well and a copy of all plats and documents which may accompany the application; and
 - (b) That the coal interest holder agrees to the stimulation of the workable coalbed as described in the application.
- (4) Subject to KRS 349.020(5), in the absence of the applicant submitting the agreement to stimulate as described herein, the applicant may submit a request for a hearing before the review board accompanied by an affidavit, or verified statement, which shall include the following:
 - (a) A statement that the coal interest holder has refused to sign a written agreement to stimulate the workable coalbed;
 - (b) A statement detailing the efforts undertaken to obtain the signed agreement to stimulate; and
 - (c) A statement that the proposed method of stimulation does not involve the use of explosives and will not have a significant adverse affect on the mineability of the workable coalbed, or impair mine safety.
- (5) The failure to obtain an agreement to stimulate shall in no way create an inference or presumption that the method of stimulation proposed by the applicant will harm the workable coalbed.
- (6) Upon receipt of a request for a hearing and an affidavit, or verified statement, as set forth in this section, the department shall forward the application to the review board to consider the proposed stimulation, or if other objections or requests are filed requiring a hearing before the review board, the request may be included for consideration by the review board along with other matters related to the permit application.
- (7) Any well operator that stimulates a workable coalbed without an agreement to stimulate from the coal interest holder shall be liable in tort without proof of negligence for any damages proximately caused by the stimulation to the

workable coalbed, or any other workable coalbed within five hundred (500) horizontal feet of the coalbed methane well stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed stimulated and for damages to any mining equipment proximately caused by the stimulation. The well operator shall be liable for injury, death, or damage to property proximately caused by the stimulation.

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