

349.070 Powers of Coalbed Methane Well Review Board to take actions necessary to prevent waste and protect rights of owners -- Objections by holders, lessors, and lessees -- Hearings.

- (1) In order to prevent the waste of coalbed methane or to protect the correlative rights of the owners of coalbed methane, the review board on its own motion or upon application of an operator of a coalbed methane well or owner of coalbed methane shall have the power to establish or modify drilling units, establish or modify field rules, or unitize coalbed methane wells, pools or fields. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool or field. Any operator of a coalbed methane well or owner of coalbed methane may apply to the review board for the creation or modification of drilling units, the establishment or modification of field rules for a pool or field, and the unitization of any coalbed methane wells, pools, or fields.
- (2) With respect to any request for the creation or modification of drilling units, establishment or modification of field rules for the pool or field, and the unitization of any coalbed methane wells, pools, or fields, the review board shall grant or deny the request and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceedings:
 - (a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of KRS 349.075;
 - (b) The plan of development for the coal, that drilling units conform to mine development plans, and the need for proper ventilation of any mines or degasification of any affected coal seams;
 - (c) The nature and character of any coal seam or seams which will be affected by the coalbed methane well or wells;
 - (d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;
 - (e) Evidence relevant to the proper boundary of the drilling unit;
 - (f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;
 - (g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;
 - (h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane well within the drilling unit; and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the drilling unit for the benefit of the majority of the coalbed methane owners;
 - (i) If more than one person is interested in operating a coalbed methane well within the drilling unit, the estimated cost of submitting by each such person for drilling, completing, operating and marketing the coalbed methane from

- any proposed coalbed methane well or wells;
 - (j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;
 - (k) The correlative rights of the operators and owners of coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and
 - (l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352, and this chapter.
- (3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to establish or modify a drilling unit, establish or modify field rules or establish or modify the unitization of coalbed methane wells, pools or fields. The review board shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order:
- (a) Establishing or modifying a drilling unit, field rules or unitizing coalbed methane wells, pools or fields;
 - (b) Refusing to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields; or
 - (c) Attaching certain conditions to the establishment or modification of a drilling unit, field rules, or unitization of coalbed methane wells, pools or fields.
- (4) In establishing or modifying a drilling unit for coalbed methane wells, and in order to accommodate the unique characteristics of coalbed methane development, the review board may require that drilling units conform to the mine development plan, if any. If requested by the coal interest holder, well locations and spacing shall correspond with mine operations, including the drilling of multiple coalbed methane wells on the same surface location of each drilling unit.
- (5) If an order to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields will allow a coalbed methane well to be drilled into or through a workable coalbed, any coal interest holder and any record oil and gas lessor and lessee within the area to be covered by the drilling unit, field rules or unitization of coalbed methane wells, pools or fields may object to the establishment or modification of the drilling unit, field rules or unitization of coalbed methane wells, pools or fields.
- (6) The review board may continue a hearing to allow for further investigation and the gathering and taking of additional data and evidence. If at any time during a hearing there is not sufficient evidence for the review board to determine field boundaries, or drilling unit size or shape, the review board may enter a temporary order establishing provisional drilling units, and field boundaries for the orderly development of the pool or field, pending receipt of the information necessary to determine the ultimate pool or field boundaries, and spacing of wells for the pool or field. Upon additional findings of fact, the boundaries of a pool or field and drilling units for the pool or field may be modified by the review board.

- (7) Unless otherwise provided for by the review board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional wells shall be permitted in the pool or field until the review board's order establishing or modifying the pool or field or unit has been entered.
- (8) After the review board issues a field or pool spacing order which creates drilling units or a pattern of drilling units for a pool or field, should an operator or owner of coalbed methane apply for a permit or otherwise indicate a desire to drill a coalbed methane well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool or field, the review board may, on its own motion or the motion of any interested person, require that the coalbed methane well be located and drilled in compliance with the provisions of the order affecting the pool or field.

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