

**353.640 Pooling order -- Notice -- Provisions -- Surrender or sharing of interest -- Limited participation -- Review under KRS 353.700.**

- (1) The operator shall provide a list to the department of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the department for a pooling order. A pooling order shall be made only after the applicant provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, not more than thirty (30) days prior to the submission of an application for pooling, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:
  - (a) State that an application for a pooling order is being filed with the division;
  - (b) Describe any tract, or portion thereof, proposed to be pooled;
  - (c) In the case of an unknown owner, identify the name of the last known owner;
  - (d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and
  - (e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the operator at the published address and provide a copy of the notification to the director within twenty (20) days of the date of publication.

The applicant shall file proof of notice with the division concurrently with the application.

- (2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.
- (3) A pooling order shall establish a procedure for the owner of an operating interest who does not decide to become a participating operator to elect to either:
  - (a) Surrender, by means of sale or lease, the interest to a participating operator on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be determined by the director; or
  - (b) Share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent

(200%) of the share of the costs allocable to his or her interest.

- (4) An oil or gas owner whose identity and location remain unknown after thirty (30) days has passed from the date of publication required by subsection (1) of this section and whose interest is pooled pursuant to KRS 353.630(3) shall be deemed to have elected to lease the interest to the oil or gas operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (3) of this section.
- (5) Except as provided in this subsection, an oil or gas owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the oil or gas interest to the oil or gas well operator in the manner established in subsection (4) of this section. If the holder of an operating interest has obtained the interest by lease or other agreement granting the right to conduct operations to anyone other than the holder of the oil and gas estate, and if the owner of the operating interest does not make an election under the pooling order, the holder of the operating interest shall be deemed to have elected to share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his or her share equal two hundred percent (200%) of the share of the costs allocable to his or her interest.
- (6) A person whose interest is subject to an oil or gas lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of subsection (3) of this section.
- (7) The department shall provide a copy of the pooling order entered under KRS 353.500 to 353.720 to those required to be noticed. A certified copy of any pooling order shall be recorded by the operator in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be deemed to be delivery of the order to all unknown or nonlocatable owners.
- (8) Any order or final determination of the department under this section shall be subject to review in accordance with KRS 353.700 and any administrative regulations promulgated thereunder.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 94, sec. 9, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 24, sec. 1909, effective July 15, 2010. -- Amended 2002 Ky. Acts ch. 217, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 268, sec. 3, effective July 14, 2000. -- Amended 1978 Ky. Acts ch. 384, sec. 487, effective June 17, 1978. -- Created 1960 Ky. Acts ch. 103, sec. 16, effective June 16, 1960.