

**353.645 Operation and development as a unit of oil and gas interests in a pool or pools -- Application for unit -- Hearing -- Unitization order -- Review under KRS 353.700.**

This section applies to any lessee or owner of an oil and gas interest in a proposed unit.

- (1) The department, at its own discretion or upon the application of any lessee or owner of an oil and gas interest in a pool or pools of a proposed unit may, after notice to all lessees or owners of an oil and gas interest in a pool or pools of a proposed unit, issue an order for the operation and development as a unit of any pool or pools, or any portion thereof, for the production of oil and associated gas in order to increase their ultimate recovery by unitized operation and development so that each owner in the pool or pools shall have the opportunity to recover his fair and equitable share of the recoverable oil and gas in the unit. The department may require a reasonable application fee from a lessee or owner of an oil and gas interest applying for a proposed unit.
- (2) The application for a unit shall include the following:
  - (a) A description of the area to be included in the unit, with a map attached, and a description of the pool or pools, or portions thereof, to be included within the unit;
  - (b) A statement of the nature of the unit operations contemplated;
  - (c) A proposed allocation of production and reserves among the separately-owned tracts and interests contributed to the unit. Reserves shall be calculated by industry standard methods supported by geological and engineering data, as determined to be appropriate by the department. The department may require an independent third party to verify the calculations as to proposed allocation of production or reserves;
  - (d) The procedure upon which wells and equipment of the separately-owned tracts and interests are to be used and compensated for in unit operations; and
  - (e) Documentation that the application is approved by at least fifty-one percent (51%) ownership in the interests proposed for inclusion in the unit.
- (3) After notice in the manner established in this section, the department shall issue a final order establishing a unit and requiring unit operation and development if it finds that:
  - (a)
    1. The unitized operation and development of a pool or pools, or any portion thereof, for the production of oil and associated gas is reasonably necessary in order to effectively carry on operations for enhanced recovery, including but not limited to, increased density drilling, or secondary recovery operations by pressure-maintenance, repressuring, cycling, water flooding, tertiary recovery operations, or any combination of these, in order to substantially increase the ultimate recovery of oil and associated gas from the pool or pools within the unit, or to protect the correlative rights of affected mineral owners; and
    2. The value of the additional recovery of oil and associated gas exceeds the estimated additional cost incident to conducting the operation; or

- (b) The unitized operation of the pool or pools within the unit will prevent waste and protect the correlative rights of the owners in the pool or pools within the unit.
- (4) Each well permitted to be drilled, deepened, reopened, or converted to an injection well and operated in a unit shall conform to either the spacing standards established in KRS 353.610, or to other unit spacing that shall be established by the department.
- (5) All unit operations and production shall be deemed, for all purposes, as the conduct of operations and production upon each of the separately-owned tracts and interests in the unit.
- (6) A unitization order issued in accordance with this section shall:
  - (a) Authorize the unit operation of a pool or pools, including drilling, deepening, reopening, conversion to injection wells, and operation of all wells within the unit for the production of oil and gas from the unit;
  - (b) Designate the unit operator of the operation;
  - (c) Approve a unit operating agreement;
  - (d) Provide for the allocation of production and reserves among all separately-owned tracts and interests in the unit;
  - (e) Provide for the proportionate allocation of all reasonable costs and expenses of unit operations as these costs and expenses are set out in the approved operating agreement. Costs and expenses shall be allocated among all participating owners of operating interests who elect to participate in the proportion that the separately-owned tracts and interests share in the production of the unit; and
  - (f) Establish the spacing approved for the unit.
- (7) Any unitization order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of developing the unit may elect to surrender his interest, or a portion of it, to the participating owners on a reasonable basis and for a reasonable consideration, which if not agreed upon, shall be determined by the department; or elect to participate in the development of the unit on a carried basis on terms and conditions which, if not agreed upon, shall be determined by the department to be just and reasonable. If a dispute arises as to the costs of operating and developing a unit, then the department shall determine and apportion the costs within ninety (90) days after the date of written notification to the department of the existence of the dispute; however, any person disputing an actual or proposed expenditure shall file notice of the disputed costs within one (1) year after notice of the actual or proposed expenditure was received by the person filing the dispute.
- (8) An order establishing a unit may be modified, altered, extended, vacated, or otherwise amended by the department after notice as prescribed in this section and a demonstration by affected persons of a significant change of circumstances supporting the amendment.
  - (a) An amendment to extend or enlarge the unit area shall be agreed upon in writing by documented owners of at least a fifty-one percent (51%) ownership

in the interests in the pool or pools in the unit;

- (b) An amendment of a unitization order enlarging a unit shall allocate to each tract or interest in the unit, as amended, a portion of the total production of oil or gas, or both, from the unit so enlarged, in proportion to the contribution of the tract or interest to the unit during the remaining course of unit operations, and shall supersede and be in lieu of the allocation of production provided for in any previously-established unit and shall have an effective date provided for in the order.
- (9) Wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation shall be governed by applicable state and federal statutes and regulations.
- (10) 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. 10, effective July 14, 2018. -- Amended 1996 Ky. Acts ch. 318, sec. 342, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 431, sec. 2, effective July 15, 1994.