

### **352.510 Mining near oil or gas wells -- Hearing.**

- (1) In any underground mine before removing any coal or other material or driving any entry or passageway within three hundred (300) feet of any surveyed natural gas or petroleum well, or before extending the workings in any mine beneath any tract of land on which these wells are also drilled, or within three hundred (300) feet of any of these wells or under any tract of land in visible possession of a well operator, the operator shall forward simultaneously to the well operator and to the Department for Natural Resources, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine workings and projected mine workings beneath the tract of land and within three hundred (300) feet of its outer boundaries. The operator may then proceed with his mining operations in the manner indicated on the copy of the map or plan; but if the conduct of his mining operations nearer than three hundred (300) feet to any surveyed natural gas or petroleum well, whether completed or being drilled, or to any proposed well where a derrick is being constructed for drilling, or proposed well will endanger the use of drilling of the well, the well owner or operator affected may, within fifteen (15) days from the receipt of the copy of the map by him and the department, file specific objections in writing to the mining operations within less than three hundred (300) feet of the well; and if the objection is filed, the department shall notify the operator of the character of the objections and fix a time and place for an informal hearing not more than ten (10) days from the end of the fifteen (15) day period. At the hearing, the operator and the well operator, in person or by a representative, shall consider the objections and agree upon the character and extent of operations to be conducted within less than three hundred (300) feet of the well to satisfy the objections raised and meet the approval of the department. And, if no agreement can be reached, the department, after an administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection of the use and operation of the well. The decision shall be subject to appeal by either party as provided in KRS 351.040. The department shall keep a complete record of all the hearings.
- (2) The mine operator shall, every six (6) months, while mining within three hundred (300) feet of the surveyed natural gas and petroleum well, bring up to date the maps and plans required by this section, or file new maps and plans complete to date.
- (3) Prior to issuance of a waiver to mine within three hundred (300) feet of an oil or gas well, the Office of Mine Safety and Licensing shall determine whether the oil or gas operator has been properly notified as required by subsection (1) of this section.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 79, sec. 13, effective June 25, 2009. -- Amended 1996 Ky. Acts ch. 308, sec. 48, effective April 9, 1996; and ch. 318, sec. 337, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 348, sec. 3, effective July 14, 1992. -- Amended 1974 Ky. Acts ch. 315, sec. 76. -- Amended 1972 Ky. Acts ch. 303, sec. 46. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 3766b-14.

**Legislative Research Commission Note (4/9/96).** The action taken with respect to this statute by 1996 Ky. Acts ch. 308 was to have become effective April 8, 1996, under Section 51 of that Act. The Act, however, did not become effective until April 9, 1996, when the Governor's signed copy of the Act was filed with the Secretary of State.

**Legislative Research Commission Note (6/20/2005).** 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.