

349.065 Authority of Coalbed Methane Well Review Board to hear and rule upon appeals of actions of the Department of Natural Resources -- Hearings.

- (1) The department shall notify the review board of the objection, request, or appeal as set forth in KRS 349.060(1) and schedule a time and place for a hearing.
- (2) Notice of the hearing shall be given not less than fifteen (15) days in advance of the hearing to the applicant, surface owners, and all other parties as required under KRS 349.020, 349.070, or 349.085, as applicable. The hearing of the review board shall be held within thirty (30) days after the filing of the objection, request, or appeal or as soon thereafter as the review board can be assembled.
- (3) All proceedings before the review board shall be conducted in accordance with KRS Chapter 13B.
- (4) With respect to any objection filed pursuant to KRS 349.015 concerning the proposed coalbed methane well, or its location, stimulation or completion, appeals arising under KRS 349.020(5), or requests for a hearing arising under this chapter, the review board shall make a determination as to whether a permit shall be issued by the department and any conditions to be included within the permit, which determination and order shall be 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 proceeding:
 - (a) The declaration of public policy and legislative findings as set forth in this chapter;
 - (b) Whether the proposed coalbed methane well can be drilled safely, taking into consideration the dangers from creeps, squeezes, or other disturbances due to the extraction of coal;
 - (c) The feasibility of moving the proposed drilling location to another location;
 - (d) Whether any stimulation of the workable coalbed will have a significant adverse affect on the mineability of that workable coalbed or any other workable coalbeds within five hundred (500) feet of the proposed coalbed methane well to be stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated or impair mine safety;
 - (e) Whether the drilling location is above or in close proximity to any mine opening, shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, any abandoned, operating coal mine or any coal mine already surveyed and platted but not yet being operated;
 - (f) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing or planned pillar of coal, taking into consideration the surface topography;
 - (g) The extent to which the proposed drilling location interferes with the safe recovery of coal or coalbed methane;
 - (h) The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations;

- (i) The technology and methods proposed for the safe and efficient recovery of coal and coalbed methane;
 - (j) The practicality of locating the coalbed methane well out of a uniform pattern with other wells;
 - (k) The surface topography and use; and
 - (l) Any other factor the review board determines would be considered consistent with KRS Chapters 350 and 352 and this chapter.
- (5) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon the ability to mine any affected workable coalbed safely and the protection of any workable coalbed for safe future mining, shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (4) of this section, and based thereon shall issue and file with the department a written order directing it to:
- (a) Refuse to issue a coalbed methane well permit;
 - (b) Issue a permit for the proposed coalbed methane well location and any conditions to be included within the permit;
 - (c) Issue a coalbed methane well permit and any conditions to be included within the permit for an alternate drilling location different from that requested by the applicant; or
 - (d) Issue a permit authorizing the applicant to stimulate the coalbed methane well in the absence of an agreement of the affected coal interest holders as described in KRS 349.045(1), as proposed or as modified by the order of the review board.
- (6) With respect to any request for a hearing pursuant to KRS 349.025 by a coalbed interest holder, or any record oil or gas lessor or lessee of any tract being penetrated by a coalbed methane well, to determine whether the well has been abandoned and should be plugged in accordance with this chapter, the review board shall make a determination as to whether the coalbed methane well should be plugged, which determination and order shall be 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 proceeding:
- (a) Whether the coalbed methane well has ceased to produce in paying quantities, and no dewatering operations are being conducted, for a period of fifteen (15) consecutive months;
 - (b) Whether the coalbed methane well is being temporarily shut in by the coalbed methane well operator; and
 - (c) Any other factor the review board determines should be considered consistent with this section.
- (7) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether the coalbed methane well has been abandoned and should be plugged in accordance with this chapter; shall enter a written order containing findings of fact and conclusions which address any relevant

consideration in subsection (6) of this section based thereon; and shall issue and file with the department a written order directing the department to:

- (a) Require the coalbed methane well operator to plug and abandon the well;
 - (b) Allow the coalbed methane well operator to continue to operate and produce the well; or
 - (c) Allow the coalbed methane well operator to continue to shut in the coalbed methane well on a temporary basis.
- (8) Upon receipt of the review board order, the department shall promptly undertake the action directed by the review board, provided that all other provisions of this chapter have been complied with.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 65, sec. 13, effective July 13, 2004.

Legislative Research Commission Note (7/13/2004). When this statute was enacted (2004 Ky. Acts ch. 65, sec. 15), the word "feet" should have been included after the phrase "five hundred (500)" in subsection (4)(d) of this section. This manifest clerical or typographical error has been corrected by the Reviser of Statutes pursuant to KRS 7.136.