

**CHAPTER 65****(HB 577)**

AN ACT relating to coalbed methane development and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. KRS CHAPTER 349 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

**(1) *The General Assembly hereby declares:***

- (a) *The venting of coalbed methane and degasification of coal seams is approved by the Commonwealth for the purpose of ensuring the safe recovery of coal;***
- (b) *The positive economic impact of coal mining to the Commonwealth is currently greater than that of coalbed methane production;***
- (c) *Coalbed methane is not found in conventional gas reservoirs;***
- (d) *Any development of coalbed methane should be undertaken in a way to protect and preserve the environment and protect and preserve the coal for future safe mining and the maximum recovery of coal;***
- (e) *Commercial recovery and marketing of coalbed methane should be facilitated whenever appropriate to meet the energy needs of both the Commonwealth and the United States;***
- (f) *The extraction of methane from mineable coal enhances mine safety, promotes environmental goals and objectives, and conserves an important energy resource; and***
- (g) *The Energy Policy Act of 1992 was enacted, in part, to encourage coalbed methane development and the Commonwealth should enact legislation to carry out the purpose of that Act.***

**(2) *Therefore, in order to encourage and ensure the fullest practical safe recovery of both coal and coalbed methane, consistent with the above declarations and findings, this chapter is established to:***

- (a) *Authorize coalbed methane well permits;***
- (b) *Regulate the design of coalbed methane wells and recovery techniques;***
- (c) *Authorize coalbed methane well drilling units and pooling interests therein;***
- (d) *Establish field rules; and***
- (e) *Provide a process to enable coalbed methane well operators and coalbed methane owners to proceed with the orderly development and production of coalbed methane pending the judicial resolution of issues relating to coalbed methane ownership.***

**(3) *Notwithstanding subsections (1) and (2) of this section, the General Assembly expressly finds that establishing an orderly process to permit and produce coalbed methane shall in no way be construed to create an inference or presumption as to the ownership of coalbed methane in any judicial or administrative proceeding, or be construed to or be used or interpreted to apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353, except for any wells that are to be permitted, converted to, or operated as coalbed methane wells.***

- (4) *It is hereby declared to be the public policy of this Commonwealth and in the public interest to:*
- (a) *Safeguard, preserve, and protect coal seams for safe mining; facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state; and maintain the ability and right of coal operators at all times to vent coalbed methane from mine areas for the safe recovery of coal;*
  - (b) *Foster, encourage, and promote the commercial development of the Commonwealth's coalbed methane by establishing procedures for issuing permits and forming drilling units for coalbed methane wells without adversely affecting the safety of mining or the mineability of coal seams;*
  - (c) *Safeguard, protect, and enforce the correlative rights of coalbed methane operators and coalbed methane owners in a pool of coalbed methane so that each operator and owner may obtain his or her just and equitable share of production from coalbed methane;*
  - (d) *Create a state permitting procedure and authority to provide for and facilitate coalbed methane development as encouraged by the Energy Policy Act of 1992; and*
  - (e) *Seek the deletion of the Commonwealth of Kentucky from the list of affected states by the Secretary of the United States Department of Interior as provided for in the Energy Policy Act of 1992.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

*As used in this chapter:*

- (1) *"Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;*
- (2) *"Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;*
- (3) *"Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;*
- (4) *"Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;*
- (5) *"Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;*
- (6) *"Commissioner" means the commissioner of the Department of Natural Resources;*
- (7) *"Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;*

- (8) *"Department" means the Department of Natural Resources;*
- (9) *"Director" means the director of oil and gas conservation as established in KRS 353.530;*
- (10) *"Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;*
- (11) *"DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035;*
- (12) *"Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;*
- (13) *"Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;*
- (14) *"Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;*
- (15) *"Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;*
- (16) *"Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);*
- (17) *"Mine permittee" means the permittee as defined in KRS 350.010(21);*
- (18) *"Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;*
- (19) *"Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;*
- (20) *"Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;*
- (21) *"Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site*

*for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;*

- (22) *"Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;*
- (23) *"Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;*
- (24) *"Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;*
- (25) *"Plat" means a map, drawing, or print showing the location of a well;*
- (26) *"Review board" means the Coalbed Methane Well Review Board;*
- (27) *"Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;*
- (28) *"Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;*
- (29) *"Surface owner" means the person in whose name the surface of the land is assessed for purposes of taxes imposed according to the property valuation administrator;*
- (30) *"Unit" means any tract or tracts which the department has determined are overlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;*
- (31) *"Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;*
- (32) *"Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;*
- (33) *"Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;*
- (34) *"Venting" means the act of releasing coalbed methane to the atmosphere;*
- (35) *"Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and*
- (36) *"Workable coalbed" means:*
  - (a) *Any coalbed twenty-four (24) inches or more in thickness;*

- (b) Any coalbed actually being operated commercially;*
- (c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or*
- (d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:
  - (a) The county in which the coalbed methane well drill site is located;*
  - (b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;*
  - (c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;*
  - (d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;*
  - (e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and*
  - (f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.**
- (2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.*
- (3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine*

*before the DSMRE, a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.*

- (4) A copy of the required plat shall also be sent, by registered or certified mail, simultaneously with the filing of an application for a permit, to the surface owner of the drill site tract and surface owners of adjoining tracts.*
- (5) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.*
- (6) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.*
- (7) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.*
- (8) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.*
- (9) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:*
  - (a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;*
  - (b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and*
  - (c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.*
- (2) *If any coal interest holder, notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.*
- (3) *If the record oil and gas lessor, lessee, or well operator notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.*
- (4) *If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.*
- (5) *Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to DSMRE. Within fifteen (15) days of receipt by DSMRE notification shall be sent to the department by DSMRE as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE, or the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE or within the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:*

- (a) *Authorization has been denied by the mine permittee; and*
- (b) *The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Prior to the abandonment of a coalbed methane well drilled through a workable coalbed, the well operator shall notify, by certified mail, return receipt requested, or by registered mail, all the coal interest holders of the workable coalbed and the department of the operator's intention to plug and abandon the well. The notice shall give the number of the well and its location, and fix the time at which the work of plugging and filling will be commenced. The time shall not be less than fifteen (15) days after the day on which the notice was received, or in due course should be received, by the department. The department shall prescribe the form of notice to be used. A representative of any coal interest holder, at his or her own expense and liability, and of the department may be present at the plugging and filling of the well. Regardless of whether representatives appear, the well operator may proceed, at the time fixed, to plug and fill the well. When the well is plugged and filled, an affidavit setting forth the time and manner in which the well was plugged shall be made in triplicate by two (2) persons experienced in plugging and filling wells who participated in the work. The affidavit shall be made on forms furnished by the department. One (1) copy of the affidavit shall be retained by the well operator, one (1) provided to each coal interest holder, and one (1) provided to the department.*
- (2) *In addition to the notification required under subsection (1) of this section, prior to the abandonment of a coalbed methane well the operator shall submit a plugging plan which is subject to approval by the department. The proposed plugging plan shall be designed to allow coal mining to occur through the well after the well is plugged.*
- (3) *If a coalbed methane well ceases to produce in paying quantities and no dewatering operations are being conducted for a period of fifteen (15) consecutive months, any coal interest holder or any record oil or gas lessor or lessee of any tract being penetrated by the coalbed methane well, may file a request for hearing pursuant to Section 12 of this Act, to determine whether the well has been abandoned and should be plugged in accordance with this section. However, nothing in this subsection shall require the plugging and abandonment of a coalbed methane well that is being temporarily shut in by the coalbed methane well operator. Simultaneously with the filing of a request for a hearing with the department, the person requesting the hearing shall send a copy of the request to the coalbed methane well operator.*
- (4) *Any coal interest holder shall have the following rights with respect to a coalbed methane well to be plugged and abandoned:*
  - (a) *To convert the coalbed methane well to a vent hole or otherwise take the coalbed methane well. In this event the department, upon determination that the coal interest holder has placed the coalbed methane well under a mining permit, shall release the coalbed methane well operator's bond and the coalbed methane well operator shall be relieved of further responsibility for the coalbed methane well; and*



- (b) To file an objection concerning the proposed manner or method of plugging with the department, within fifteen (15) days after receipt of notice of intent to plug. The department shall consider any objection and may issue an order specifying the manner and method of plugging and reclamation consistent with this section.*
- (5) All coalbed methane wells shall be plugged and abandoned in accordance with this section. The department shall promulgate regulations specifying the manner and method of plugging vertical and horizontal coalbed methane wells and in so doing, or in entering any order for such plugging and abandonment, shall give consideration to the ability to mine any affected coal seam safely and the protection of any affected coal seam for future mining.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) If a coalbed methane well is permitted and drilled within the boundaries of any coal mine for which a permit has been issued or an application for a mine permit or a mine permit modification or amendment has been filed but not issued pursuant to KRS Chapter 350, the mine licensee shall have the right to mine through that coalbed methane well and the associated drilling unit in accordance with the provisions of this subsection.*
  - (a) At least one hundred twenty (120) days prior to mining through a coalbed methane well and associated drilling unit, the mine licensee shall notify the review board and operator of its intention to mine through the property. The notice shall be made on a form prescribed by the review board, and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit. After a hearing the review board shall promptly issue a written determination on whether the continued operation of the coalbed methane well will impede, interfere with, or present a possible safety hazard to the mine licensee's planned mining operations. If the review board determines that the coalbed methane well will impede, interfere with, or present a safety hazard to the planned mining operations, concurrently an order shall be issued to the operators, with a copy to the mine licensee, directing the temporary or permanent plugging of the well at the operator's cost and such other action as may be appropriate in the circumstances. Following the issuance of the order, the review board shall promptly issue a mine through certificate to the mine licensee, with a copy to the operator, authorizing the mine licensee to mine-through the coalbed methane well and associated drilling unit.*
  - (b) The mine licensee and all other coal interest holders having interests in the coalbed within the drilling unit shall have no duty or obligation to compensate or pay the operator or other interested coalbed methane parties for any causes of action, claims, or damages arising from the suspension or loss of coalbed methane production or the plugging and abandonment of a coalbed methane well and the removal or relocation of any associated facilities, infrastructure, and improvements due to mining through the coalbed methane well and associated drilling unit pursuant to this subsection.*

- (2) *If a mine licensee files an application for a coal mine permit or seeks to modify or amend an existing coal mine permit so as to include a geographical area containing one (1) or more existing coalbed methane wells or any well sites for which drilling permits have been issued or are pending, the mine licensee shall have the right to mine through those coalbed methane wells or into or through a coalbed methane well and the associated drilling units and any well sites for which permits to drill have been issued or applications for permits to drill have been filed but not issued in accordance with the provisions of this subsection.*
- (a) *At least one hundred eighty (180) days prior to mining into or through one (1) or more drilling units or permitted well sites operated by a common operator, the mine licensee shall notify the review board and the operator of its intention to mine into or through the property. The notice shall be made on a form prescribed by the review board and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit.*
- (b) *Within thirty (30) days after receiving the mine licensee's notice pursuant to paragraph (a) of this subsection, the mine licensee and operator shall enter into a confidentiality agreement on a form prescribed by the review board and the operator shall provide, to the extent available, copies of all data and information necessary and appropriate to enable the mine licensee to determine the current value of each drilling unit, well site, and any associated assets described in the mine licensee's notice in accordance with the criteria set forth in paragraph (e) of this subsection. The information shall be in a form prescribed by the review board and shall include, among other things, data, reports, and information relating to current coalbed methane reserve calculations, well completions, historic production and sales results, capital and operating costs, all actual land, legal permitting, survey, title, and any other costs and expenses directly relating to the acquisition, permitting, development, and operation of each drilling unit and well site, and estimated well plugging and abandonment costs of any existing coalbed methane wells. In addition, the operator shall provide the review board and mine licensee with copies of all agreements and leases, payment division orders and any pooling agreements or pooling orders for each drilling unit and well site, together with a schedule setting forth the name, address, and working interest and net revenue percentages, royalties and overriding royalties, and all other interests and rights of all other interested coalbed methane parties. If the information is not timely filed or is incomplete, the mine licensee may seek an order from the review board directing the operator to comply with the provisions of this subsection.*
- (c) *Within thirty (30) days after receiving the information described in paragraph (b) of this subsection, the mine licensee and operator shall meet and confer at a mutually agreed upon date, time, and place for the purpose of attempting to conclude a mutually acceptable agreement as to the compensation due to the operator for any damage, impairment, or loss to each drilling unit, well site, and any associated assets described in the information provided by the operator resulting from the mine licensee's planned mine-through operations. Any compensation agreement between*

*the mine licensee and operator for each drilling unit or well site shall be approved and executed by all other interested coalbed methane parties. The mine licensee and operator shall jointly notify the review board that a compensation agreement has been entered into between the parties and request that the review board issue a mine-through certificate for each drilling unit and well site described in the notice. The notice shall include any terms and conditions set forth in the compensation agreement that the parties have agreed to incorporate in the applicable mine-through certificates. Upon receipt of the executed compensation agreement, the review board shall promptly issue the requested mine-through certificates to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the parties are unable to reach an agreement, within ten (10) days following the expiration of the thirty (30) day meet and confer period, either party may request a hearing before the review board for the purpose of determining the compensation due the operator and any terms and conditions to be imposed upon the mine licensee's proposed mining operations. Copies of the hearing request shall be sent to all other interested coalbed methane parties.*

- (d) Within fifteen (15) days of receiving the hearing request, the review board shall schedule a hearing to take place within sixty (60) days and shall notify the mine licensee, the operator and all other interested coalbed methane parties of the date, time, and location of the hearing. At its election, the review board may engage a qualified petroleum engineer for the purpose of conducting an independent evaluation of the compensation to be paid to the operator and all other interested coalbed methane parties in accordance with paragraph (e) of this subsection. The mine licensee and the operator shall each pay one-half (1/2) of the costs and expenses for the petroleum engineer retained by the review board.*
- (e) The review board shall determine the value of each drilling unit, well site, and all associated assets before and after the mine licensee's planned mine-through operations. In determining the amount of compensation due the operator and all other interested coalbed methane parties, the review board must consider all relevant evidence and information submitted and the review board shall base its decision solely upon the following criteria and procedures:*

  - 1. Except as otherwise expressly provided in this subsection, all coalbed methane reserve estimates and the valuation of reserves and other assets damaged, impaired, or lost due to the planned mining operations shall be consistent with standard oil and gas industry accounting, engineering, and reserve practices and shall be performed pursuant to the then-current applicable laws, regulations, policies, and guidelines for determining gas reserves for public reporting companies in the United States.*
  - 2. At the hearing, the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties, shall appear and submit evidence and testimony as to the value of the subject drilling units, well sites, and any associated assets before and after the mine licensee's planned mining operations. The review board shall only consider coalbed methane reserve estimates or valuation determinations made in conformity with subparagraph 1. of this paragraph by a professional petroleum engineer with experience in evaluating coalbed methane reserves and operations. All reserve estimates and any valuation analysis prepared by the mine licensee and operator for use in*

*the review board's hearing shall be effective thirty (30) days prior to the date of the hearing. The reserve estimates and valuation analysis shall be exchanged between the mine licensee and operator and copies of the information shall be provided to the review board and all other interested coalbed methane parties no less than twenty-one (21) days prior to the hearing date. Any coalbed methane reserve estimates or valuation analysis prepared at the review board's request shall be set forth in a written report. Copies of the report prepared for the review board shall be provided to the mine licensee, the operator, and all other interested coalbed methane parties no less than ten (10) days prior to the review board's hearing date.*

- 3. All estimates of remaining recoverable coalbed methane reserves immediately before and immediately after the planned mining operations shall consist of proved developed producing or proved developed nonproducing reserves as determined pursuant to this subsection. A drilling unit shall have proved developed producing reserves if the unit has an operating coalbed methane well, which is completed in one (1) or more target coal seams and is producing commercial quantities of coalbed methane. The drilling units total proved developed producing reserves before and after the planned mining operations shall be calculated based on the completed coal seams within the unit well. A drilling unit shall have proved developed nonproducing reserves if the unit has a coalbed methane well which is completed in one (1) or more target coal seams and is fully operational and all associated infrastructure such as power, gas gathering, and water management systems required to produce and sell coalbed methane in commercial quantities has been constructed, but the well is not producing coalbed methane in commercial quantities because it either is in the dewatering stage or is not operating due to factors beyond the operator's control. Whether a drilling unit contains proved developed producing reserves or proved developed nonproducing reserves shall be determined based on the status of the coalbed methane well and associated infrastructure sixty (60) days prior to the review board's hearing date.*
- 4. The net present value of proved developed producing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twelve percent (12%). The net present value of proved developed nonproducing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twenty percent (20%). The valuation analysis shall also project the net present value of all revenues received, if any, by the operator during the period in which the planned mining operations are to be conducted.*
- 5. In determining the compensation due the operator and all other interested coalbed methane parties for delayed or lost production, if the total projected production of the coalbed methane well is reduced so as not to yield a commercially reasonable return on investment to the operator, but the well is still able to produce coalbed methane in commercial quantities, the projected difference in the net present value of the recoverable reserves before and after mining shall be included as part of the compensation due the operator and all other interested coalbed methane parties.*

6. *In determining the value of the coalbed methane reserves impaired or lost due to the planned mining operations, except as expressly provided herein, no consideration shall be given to undeveloped coalbed methane resources in coal seams which have not been completed in the subject coalbed methane well or which are in coal seams below the total depth of the well bore. If, however, a coal seam in the same field is producing coalbed methane but the coal seam is not completed in the subject coalbed methane well, the operator may submit evidence to the review board for its consideration as to the potential net present value of the resources within the uncompleted seam, but in no event shall the net present value of those resources be discounted at less than thirty percent (30%).*
7. *Except as otherwise provided herein, in determining the value of coalbed methane for purposes of this subsection, the gas price shall be the last published price in the gas market closest to the drilling unit sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to a gas sales agreement or marketing contract in which the gas price is determined based on a published price, subject to any contractual adjustment, in the gas market other than the market closest to the drilling unit, the gas price shall be determined based on the last published price in a gas market referred to in the gas sales agreement or marketing contract, subject to any contractual adjustment set forth therein, sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to an arms-length firm or fixed price gas sales agreement or marketing contract, the actual sales price received by operator for gas sold sixty (60) days prior to the review board's hearing date shall be used as the gas price in the coalbed methane valuation.*
8. *All capital, operating, and production costs used in the net present value determinations made pursuant to this subsection shall be based on the operator's then current reasonable and verifiable actual costs and expenses. Copies of all relevant and available cost information shall be provided by the operator to the review board and mine licensee as provided in paragraph (b) of this subsection. If actual cost information is not otherwise available, all calculations shall be made using reasonable and customary costs for comparable coalbed methane operations in the Commonwealth and in the surrounding states.*
9. *If the planned mining operations will mine through a coalbed methane well or require the removal, relocation, or suspension of operation of other facilities, infrastructure, or improvements in a drilling unit, the operator and any other interested coalbed methane parties shall be reimbursed for all reasonable actual and direct costs, damages, and expenses to be incurred due to these mining operations; provided, however, that in no event shall any replacement costs and expenses exceed the operator's or any other interested coalbed methane parties' actual costs and expenses for the affected well, facilities, infrastructure, and improvements, as the case may be. The operator and any other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs of the subject drilling unit,*

*coalbed methane well and the associated facilities, infrastructure, and improvements. Any amounts due the operator and any other interested coalbed methane parties shall be reduced by the projected then-current market value of such equipment, facilities, and improvements to the extent that it can be salvaged and sold or used in other operations.*

10. *If, prior to drilling a coalbed methane well, the mine licensee submits a plan to mine into or through any part of the associated drilling unit or well site for which a drilling permit has been issued or is pending, the operator shall not proceed with drilling a coalbed methane well pending a final decision by the review board with respect to the mine licensee's request for a mine-through certificate. When a mine-through certificate is issued to the mine licensee, the operator and all other interested coalbed methane parties shall be reimbursed for all reasonable costs and verifiable actual land, legal, permitting, surveying, and technical costs and expenses incurred to acquire or lease and maintain the property and obtain any permits, approvals, and other agreements required to drill the coalbed methane well. The operator and all other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs to acquire or lease the subject property or permit the coalbed methane well.*
- (f) *At a hearing, the review board shall take testimony and evidence from the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties consistent with the provisions in this subsection. Within fifteen (15) days following the hearing, the review board shall issue a written decision to the mine licensee and operator determining the compensation due the operator and each of the other interested coalbed methane parties in the amount of the difference between the value of each drilling unit, well site, and any associated assets before and after the mine licensee's planned mining operations. If the review board determines that the mine licensee's proposed mining operations will result in a loss or taking of all of either the coalbed methane reserves in the coal seam to be mined and all coalbed methane reserves in completed coal seams in the coalbed methane well below the mined coal seam as provided in paragraph (e)5. of this subsection or the entire drilling unit, the operator and other interested coalbed methane parties shall be awarded the full value of the property and assets prior to the proposed mining operations as determined by the review board. The review board's decision shall list the compensation amounts to be paid to the operator and each of the other interested coalbed methane parties for each drilling unit, well site, and any associated assets. The decision shall also set forth any duties or obligations to be performed by the parties, such as the temporary or permanent plugging of any well or the relocation or removal of any surface facilities, to enable the mine licensee to proceed immediately with the planned mining operations.*
  - (g) *Within fifteen (15) days of receiving the review board's decision, the mine licensee shall notify the review board and the operator and all other interested coalbed methane parties of its decision to:*
    1. *Accept the review board's decision with respect to one (1) or more of the drilling units, well sites, and associated assets and deposit the compensation*

*awarded to the operator and each of the other interested coalbed methane parties for the property;*

2. *Appeal all or part of the review board's decision as provided in paragraph (j) of this subsection; or*
  3. *Withdraw notice of intent to mine into any of the subject coalbed methane property and assets. If the mine licensee elects to withdraw notice of intent to mine into or through all of the drilling units, well sites, and any associated assets which were the subject of the review board hearing, upon receiving a statement of costs from the operator, the mine licensee shall promptly reimburse the operator for all reasonable out-of-pocket engineering and legal costs and expenses incurred to prepare for and participate in the review board hearing and shall have no further obligations to the operator or any of the other interested coalbed methane parties.*
- (h) *Within fifteen (15) days of receiving the review board's decision, the operator, on behalf of itself and other interested coalbed methane parties, shall notify the review board and the mine licensee whether it will accept the amounts awarded by the review board or file an appeal with the Circuit Court in the county where the drilling unit or well site is located challenging the review board's valuation of any of the property or assets.*
- (i) *If no appeal of the review board's decision is filed by the parties, upon receipt of the compensation due the operator and all other interested coalbed methane parties for each drilling unit and well site selected by the mine licensee for which a mine-through certificate will be issued, the review board shall promptly deliver the awarded compensation to the operator and all other interested coalbed methane parties for the drilling unit and well site and concurrently issue the appropriate mine-through certificate to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in coal seams to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in subparagraph 5. of paragraph (e)5. of this subsection or the total value of the entire drilling unit and associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously, if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances.*
- (j) *If either party notifies the review board of a decision to appeal the review board's valuation of any of the subject coalbed methane properties and assets to the Circuit Court, the mine licensee shall deposit with the review board the compensation due the operator and each of the other interested coalbed methane parties for each drilling unit, well site and any associated assets selected by the mine licensee for which a mine-through certificate will be issued. Upon receipt of the funds from the mine licensee, the review board shall promptly deliver to the operator and the other interested coalbed methane parties one hundred percent (100%) of the awarded compensation for any drilling unit, well site and any associated assets not listed in*

*any notice of appeal and seventy-five percent (75%) of the awarded compensation to the operator and other interested coalbed methane parties for any drilling unit, well site, and any associated assets for which an appeal is to be filed. Concurrently with delivering the awarded compensation to the operator as provided herein, the review board shall issue to the mine licensee, with copies to the operator and all other interested coalbed methane parties, a mine-through certificate for each drilling unit and well site for which compensation has been received. If the review board's decision with respect to any drilling unit is not appealed and the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below that coal seam as provided in paragraph (e)5. of this subsection or the total value of each drilling unit, well site, and any associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in that property and assets, as the case may be, within the drilling unit or well site on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances to carry out its decision. All funds deposited with the review board shall be placed in an interest-bearing account pending a final resolution of any appeals.*

- (k) *Within thirty (30) days following the issuance of the review board's decision, the mine licensee or the operator, on behalf of itself and any other interested coalbed methane parties, may file a petition in the Circuit Court of the county in which the drilling unit or well site is located or in the Franklin County Circuit Court disputing the review board's valuation of all or any part of any coalbed methane properties or assets pursuant to this subsection. The parties filing the petition shall name as parties to the action the following: the review board, the mine licensee, all other coal interest holders, the operator, and all other interested coalbed methane parties. Promptly upon receiving notice of the petition, the review board shall deliver any remaining funds deposited by the mine licensee as provided in paragraph (j) of this subsection, together with all interest accrued thereon, to the clerk of the Circuit Court for the county in which the petition is filed and these funds shall be deposited in an interest bearing account pending a decision on the petition. The decision of the Circuit Court shall be made in accordance with the provisions of Section 18 of this Act. If the Circuit Court determines the operator and other interested coalbed methane parties are entitled to greater compensation than the amount awarded by the review board, the mine licensee shall pay the difference to the clerk of the Circuit Court within fifteen (15) days of the court's decision. Upon receipt of the additional funds awarded by the Circuit Court, the clerk shall promptly deliver to the operator and any other interested coalbed methane parties these funds together with all interest accrued thereon. If the Circuit Court determines that the operator is entitled to less compensation than the amount awarded by the review board, the amount of the reduction shall be refunded to the mine licensee together with any interest that accrued thereon. If the escrowed funds are not sufficient to fully reimburse the mine licensee, the operator and all other interested coalbed methane parties having an interest in the subject coalbed methane properties and assets shall*



*promptly pay the mine licensee for the difference between the escrowed funds and the total amount to be reimbursed pursuant to the Circuit Court's order. If the Circuit Court determines that the operator and other interested coalbed methane parties are to receive either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in paragraph (e)5. of this subsection or the total value of the entire drilling unit, well site, and any associated assets, which values may be increased or decreased by the Circuit Court, upon receipt of the awarded compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interest in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board.*

- (l) Subject to obtaining a decision by the Circuit Court with respect to any appeals initiated pursuant to paragraph (k) of this subsection, the operator and all of the other interested coalbed methane parties' acceptance of the compensation awarded by the review board and of the performance of any duties and obligations by the mine licensee as ordered by the review board shall constitute full and complete consideration to the operator and all of the other interested coalbed methane parties for any and all causes of action, claims, damages, or losses to each drilling unit or any portion thereof, well site, or any associated assets caused by the mine licensee, or any other coal interest holder's subsequent mining operations. The mine licensee shall be liable for any and all injuries, deaths, or damages proximately caused by the mine licensee on, in, or with respect to that property.*
- (3) If, after the mine licensee files a notice of intention to mine into or through any coalbed methane properties or assets pursuant to subsection (1) or (2) of this section, the mine licensee's coal mining permit or any pending amendment to an existing permit issued pursuant to KRS Chapter 350 is withdrawn, canceled, delayed, or modified so as to exclude all or any part of the geographic area covering any drilling unit or well site described in the mine licensee's notice, the mine licensee shall promptly advise the review board and operator that it is amending its request for a mine-through certificate to exclude any property that is no longer subject to a coal mine permit or a pending coal mine permit application.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) This chapter shall apply to all lands located in the Commonwealth however owned including lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.*
- (2) The waste of coalbed methane is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil, gas, and coalbed methane industry, giving consideration to coal mining operations and the safe recovery of coal and includes:
  - (a) The locating, drilling, equipping, operating, or producing of any coalbed methane well or wells drilled, deepened, or reopened in a manner that causes or tends to**

*cause a reduction in the quantity of coalbed methane ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or administrative regulation promulgated or issued under this chapter;*

- (b) Permitting the migration of coalbed methane from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable coalbed methane;*
  - (c) The drowning with water of any stratum or part thereof capable of producing coalbed methane in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;*
  - (d) The unlawful damage to underground, fresh, or mineral water supply, coalbeds, or other mineral deposits in the operations for the discovery, development, production, or handling of coalbed methane;*
  - (e) The unnecessary or excessive loss of coalbed methane by spillage or venting or destruction of coalbed methane or its constituents; and*
  - (f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of coalbed methane from a pool.*
- (3) For purposes of this chapter, waste does not include coalbed methane vented or released from any mine area, the degasification of a coal seam for the safe recovery of coal, the plugging of coalbed methane wells for the safe recovery of coal, or the conversion of coalbed methane wells to vent holes for the safe recovery of coal.*
- (4) The sale or use of coalbed methane from any coalbed methane well unless a permit has been issued as required by Section 8 of this Act, or in violation of the spacing provisions of Section 15 of this Act, shall be prohibited.*
- (5) No person shall conduct coalbed methane operations unless that person has first obtained the necessary permits, including surface discharge and underground injection control permits, as appropriate for the particular operation to be conducted. The department shall notify state and federal agencies with jurisdiction over the protection of surface waters and groundwater when permit applications are filed and shall, to the extent possible, coordinate permit review.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well*

*pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.*

- (2) *Every permit application filed under this section shall be verified and shall contain the following:*
- (a) *A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;*
  - (b) *The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;*
  - (c) *The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;*
  - (d) *The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;*
  - (e) *The coalbed methane well name or such other identification as the department may require;*
  - (f) *The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;*
  - (g) *A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;*
  - (h) *If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;*
  - (i) *If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;*
  - (j) *Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;*
  - (k) *If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal*

*alignment and extent of the coalbed methane well from the surface to total depth; and*

- (l) Other information as the department may require consistent with this chapter.*
- (3) Each application for a coalbed methane well permit shall be accompanied by the following:**
- (a) A permit application fee of three hundred dollars (\$300);*
  - (b) A bond in an amount prescribed in Section 24 of this Act;*
  - (c) A certificate that the applicant's notice requirements of Section 3 of this Act have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing;*
  - (d) If the proposed coalbed methane well will be located within one-half (1/2) of a mile, measuring horizontally, of a water supply well being used for residential or domestic purposes, the applicant will submit the groundwater protection plan required under KRS 224.70-110 and applicable administrative regulations promulgated pursuant thereto for review by the department, or demonstrate to the department that a plan is not required; and*
  - (e) Proof that the applicant has public liability insurance coverage in an amount not less than five hundred thousand dollars (\$500,000) in aggregate and three hundred thousand dollars (\$300,000) per occurrence for damages to persons and property caused by the applicant's operations or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations which shall be promulgated by the department.*
- (4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:**
- (a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the DSMRE and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before DSMRE;*
  - (b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before DSMRE for which no bond release has been obtained; or*
  - (c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by DSMRE for which a partial bond release has been obtained.*

*If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in subsection (1) of Section 6 of this Act.*

- (5) *If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from DSMRE and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:*
- (a) *The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;*
  - (b) *The mine licensee has refused to provide written authorization to disturb the permitted area;*
  - (c) *The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and*
  - (d) *The applicant has agreed to pay the reasonable and actual costs of the permit revision required by DSMRE to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars (\$5,000).*
- (6) *Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to Section 12 of this Act and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.*
- (7) *If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in subsection (1) or (2) of Section 6 of this Act, in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, 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. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of*

*the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:*

- (a) 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 plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and*
- (b) A statement that the applicant has met and conferred with, or offered to meet and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.*

*The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after 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, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.*

- (8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to Section 29 of this Act.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) When two (2) or more separately owned tracts, or portions thereof, are embraced within a drilling unit, or when there are separately owned interests in all or part of any such drilling unit, the operators or owners of coalbed methane owning the interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. These agreements may be based on the exercise of pooling rights or rights to*

*establish units which are granted in any gas or oil lease, coal lease, coalbed methane lease, or similar instrument.*

- (2) *No voluntary pooling agreement between or among coalbed methane operators or owners shall be held to violate the statutory or common law of the Commonwealth which prohibits monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *If any coal interest holder has objected to the proposed stimulation pursuant to subsection (1) of Section 4 of this Act, no permit shall be issued to stimulate a coalbed methane well unless the applicant has obtained and filed with the department an agreement between the coal interest holders of any workable coalbed within five hundred (500) horizontal feet of the proposed coalbed methane well to be stimulated and within the five hundred (500) foot horizontal radius and feet fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated.*
- (2) *The requirement for an agreement to stimulate in this section shall not be construed to impair, abridge, or affect any contractual rights or obligations arising out of a contract, lease, deed, or similar agreement which provides for the development of coalbed methane and stimulation of workable coalbeds between the applicant and the coal interest holder. The existence of any such contract, lease, deed, or similar document shall constitute a waiver of the requirement to file an agreement to stimulate with the department.*
- (3) *An agreement to stimulate shall provide:*
  - (a) *That the coal interest holder has been provided with a copy of the permit application to drill a coalbed methane well and a copy of all plats and documents which may accompany the application; and*
  - (b) *That the coal interest holder agrees to the stimulation of the workable coalbed as described in the application.*
- (4) *Subject to subsection (5) of Section 4 of this Act, in the absence of the applicant submitting the agreement to stimulate as described herein, the applicant may submit a request for a hearing before the review board accompanied by an affidavit, or verified statement, which shall include the following:*
  - (a) *A statement that the coal interest holder has refused to sign a written agreement to stimulate the workable coalbed;*
  - (b) *A statement detailing the efforts undertaken to obtain the signed agreement to stimulate; and*
  - (c) *A statement that the proposed method of stimulation does not involve the use of explosives and will not have a significant adverse affect on the mineability of the workable coalbed, or impair mine safety.*
- (5) *The failure to obtain an agreement to stimulate shall in no way create an inference or presumption that the method of stimulation proposed by the applicant will harm the workable coalbed.*
- (6) *Upon receipt of a request for a hearing and an affidavit, or verified statement, as set forth in this section, the department shall forward the application to the review board to*

*consider the proposed stimulation, or if other objections or requests are filed requiring a hearing before the review board, the request may be included for consideration by the review board along with other matters related to the permit application.*

- (7) *Any well operator that stimulates a workable coalbed without an agreement to stimulate from the coal interest holder shall be liable in tort without proof of negligence for any damages proximately caused by the stimulation to the workable coalbed, or any other workable coalbed within five hundred (500) horizontal feet of the coalbed methane well stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed stimulated and for damages to any mining equipment proximately caused by the stimulation. The well operator shall be liable for injury, death, or damage to property proximately caused by the stimulation.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.*
- (2) *The review board shall consist of the commissioner of the Department of Natural Resources or his or her designee within the department, the commissioner of the Department of Mines and Minerals, and the director of the Division of Oil and Gas within the Department of Mines and Minerals, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years subject to confirmation by the Senate.*
- (3) *The review board shall be, for administrative purposes only, attached to the Division of Oil and Gas within the Department of Mines and Minerals.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *The review board shall rule upon:*
- (a) *Objections to proposed coalbed methane wells, their locations, the proposed stimulation, or the proposed completion pursuant to Section 4 of this Act;*
  - (b) *Appeals of permit denials arising under subsection (5) of Section 4 of this Act;*
  - (c) *Requests for a hearing arising under subsection (3) of Section 5 of this Act ;*
  - (d) *Requests for pooling orders pursuant to subsection (1) of Section 16 of this Act;*
  - (e) *Requests for the establishment or modification of drilling units for coalbed methane wells;*
  - (f) *Requests for the creation or modification of field rules relating to the drilling, completion, and production of coalbed methane wells; and*
  - (g) *Requests for the unitization of coalbed methane wells, pools, or fields.*
- (2) *The review board shall meet, hold conferences, and hold hearings at a time and place as designated by the chairman. The chairman may call a meeting of the review board at any time. A majority of the members of the review board shall constitute a quorum for the transaction of any business to come before the review board. All determinations of the*



*review board shall be by majority vote of the quorum present. The commissioner, or his or her designee within the department, shall be the chairman of the review board. The review board shall hold a regular monthly meeting. Notice of all meetings of the review board shall be given to each member by the chairman at least ten (10) days in advance of each meeting, unless otherwise agreed by the members.*

- (3) *The review board shall execute, carry out, administer, and enforce the provisions of this chapter in the manner provided in this section.*
- (4) *The review board may:*
  - (a) *Take evidence and issue orders concerning the permitting of a coalbed methane well, its location, stimulation, and the completion pursuant to Section 3 of this Act; issue pooling orders in accordance with subsection (1) of Section 16 of this Act; issue orders regarding the establishment or modification of drilling units for coalbed methane wells, field rules relating to the drilling, completion, and production of coalbed methane wells; and requests for the unitization of coalbed methane wells, pools, and fields;*
  - (b) *Promulgate and enforce administrative regulations and rules necessary to govern the practice and procedure before the review board;*
  - (c) *Make relevant investigations of records and facilities as it deems proper in connection with ruling on any objections to a proposed coalbed methane well, its location, the proposed stimulation, or the proposed completion; and*
  - (d) *Issue subpoenas for the attendance and sworn testimony from witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, electronic data, and other pertinent documents or data in the review board's own name or at the request of any party.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall notify the review board of the objection, request, or appeal as set forth in subsection (1) of Section 12 of this Act 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 Section 4, 14, or 17 of this Act, as applicable. The hearing of the review board shall be held within thirty (30) days after the filing of the objection, request or appeals 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 Section 3 of this Act concerning the proposed coalbed methane well, or its location, stimulation or completion, appeals arising under subsection (5) of Section 4 of this Act, 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) 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*

*subsection (1) of Section 9 of this Act, as proposed or as modified by the order of the review board.*

- (6) With respect to any request for a hearing pursuant to Section 5 of this Act 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.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (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 Section 15 of this Act;*
  - (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.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

*Except as provided in Section 14 of this Act, or pursuant to voluntary pooling, no permit shall be issued for a coalbed methane well unless the proposed location of a vertical well shall be at least seven hundred fifty (750) feet horizontally from the nearest mineral boundary upon which the well is to be drilled and the proposed location shall be at least one thousand five hundred (1,500) feet horizontally from the nearest coalbed methane well, unless the department orders*

*that a different spacing distance shall apply. Spacing distances for coalbed methane horizontal wells shall be separately established by the department pursuant to this subchapter.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Whenever an applicant proposes to drill, deepen, convert, or reopen a well for purposes of production of coalbed methane and the ownership of the right to produce coalbed methane is in dispute, the department shall refer the application to the review board for its consideration and the issuance of appropriate pooling orders, if any, in accordance with Section 17 of this Act. Upon the issuance of a pooling order by the review board, and if all other provisions of this chapter are complied with the department shall issue a permit to drill, deepen, convert, or reopen the well and require the development and operation of all pooled tracts and interests as a single leasehold estate in accordance with the pooling order.*
- (2) *No pooling as permitted by this section shall be ordered except:*
  - (a) *When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in Section 15 of this Act; or*
  - (b) *A request for pooling has been made pursuant to this section or Section 17 of this Act.*
- (3) *No pooling, as permitted by this section, shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or converted or reopened:*
  - (a) *Unless the pooling was requested prior to the commencement of the drilling, deepening, converting, or reopening of the coalbed methane well; and*
  - (b) *Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, converting, or reopening of the coalbed methane well, is accompanied by a bond or other security satisfactory to and in an amount set by the review board for the payment of such owner's share of the cost of drilling, deepening, converting, or reopening the well.*
- (4) *Production from any well which is ordered pooled pursuant to this section shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *The person requesting a pooling order shall provide to the department a list of all persons reasonably known to own an oil or gas interest and all coal interest holders, in any tract upon which the coalbed methane well will be located from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest and all coal interest holders in any tract upon which the well will be located and any tract or portion thereof proposed to be pooled in any drilling unit, from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated, after a hearing has been held. After filing an application for a pooling order under subsection (1) of Section 16 of this Act, where unknown or nonlocatable owners exist, or at the request of the permit applicant or person requesting a pooling order, the permit applicant shall publish, at least twenty (20) days*

*prior to the hearing on the application for the pooling order, 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 review board;*
  - (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 permit applicant at the published address and provide a copy of the notification to the review board within twenty (20) days of the date of the publication.*
- (2) The review board shall grant or deny the request for a pooling order 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 proceeding:*
- (a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;*
  - (b) The plan of development of the coal 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 proposed 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 or wells 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 wells within the unit, and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the 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 unit, the estimated cost submitted 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 the 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 grant a pooling order, and 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 granting the pooling order with any applicable conditions or denying the pooling order.*
- (4) *A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of coalbed methane 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 working interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, converting 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 working 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 and actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.*
- (5) *A pooling order shall establish a procedure for the owner who claims a working interest and who does not decide to become a participating working interest owner to elect to either:*
- (a) *Surrender, by means of sale or lease, the interest to a participating working interest owner on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be one-eighth (1/8) of the production attributable to the well; or*
  - (b) *Share in the operation of the well as a nonparticipating working interest owner on a carried basis after the proceeds allocable to his or her share equal to two hundred percent (200%) of the share of the costs allocable to his or her interest.*
- (6) *A coalbed methane owner or claimant whose identity and location remain unknown at the conclusion of the hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to subsection (1) of Section 16 of this Act shall be deemed to have elected to lease the interest to the coalbed methane 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 (5) of this section.*
- (7) *Except as provided in this section, a coalbed methane 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 coalbed methane interest to the coalbed methane well operator in the manner established in subsection (6) of this section.*



- (8) *A person whose interest is subject to a coalbed methane 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 this section.*
- (9) *A certified copy of any pooling order entered under this section shall be entitled to be recorded 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 notice of the order to all persons.*
- (10) *Each pooling order for a coalbed methane well issued pursuant to subsection (1) of Section 16 of this Act shall provide for the establishment of an interest-bearing escrow account to be maintained by the department. The escrow account shall receive deposits and hold payment for costs and proceeds attributable to the conflicting interests as follows:*
- (a) *Each participating working interest owner, except for the unit operator, shall deposit in the escrow account the owner's proportionate share of the costs allocable to the ownership interest claimed by each participating working interest owner as set forth in the pooling order; and*
  - (b) *The unit operator shall collect all proceeds from the sale or use of coalbed methane and deposit in the escrow account all proceeds attributable to the conflicting interests of lessors, lessees, or royalty owners and all proceeds in excess of the recovery of all capital costs and expenses and all ongoing operational expenses including reasonable overhead costs and operating fees attributable to conflicting working interests.*
- (11) *The department shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within thirty (30) days of receipt by the department of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane. Upon the department's final determination:*
- (a) *Each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;*
  - (b) *Each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner as determined by the election of the person under the applicable pooling order;*
  - (c) *Each person leasing or deemed to have leased its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds as set out in the applicable pooling order attributable to the conflicting interests of the lessees;*
  - (d) *The unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner, but only to the extent that the costs and expenses described in subsection (10)(b) of this section have not been recouped from production proceeds;*
  - (e) *Each participating working interest owner who is determined not to hold an ownership interest shall receive a refund of all amounts placed in escrow pursuant to subsection (10)(a) of this section plus interest earned thereon; and*

- (f) *All amounts remaining in escrow, after distribution of amounts described in paragraphs (a), (b), (c), (d), and (e) of this subsection, shall be distributed to the legally entitled participating working interest owners in proportion to their interests.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person aggrieved by any order issued by the review board under this chapter shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any portion thereof is located as established by the order, or in Franklin Circuit Court.*
- (2) *The civil action shall be brought within thirty (30) days after the order is issued, and in the event no civil action is filed within the thirty (30) day period, the order shall be final.*
- (3) *In any civil action the burden of proof shall be upon the party challenging the order. The order shall be deemed prima facie valid. Any party to the civil action may offer evidence for any part of the record of the hearing which resulted in the order, and any other relevant evidence.*
- (4) *In any civil action no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the review board. New evidence may be introduced if, upon motion and for good cause shown, the court determines that the interest of justice will be better served by the introduction of new evidence. The court, sitting without a jury, shall hear the cause upon the record before it. The court shall dispose of the civil action in a summary manner, being limited to determining whether or not: the review board acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity with the provisions of this chapter; the order is clearly erroneous on the basis of reliable, probative, and material evidence contained in the whole record; the order is arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion. The court shall enter its findings in the order book as a judgment of the court, and the judgment shall have the effect and be enforceable the same as any other judgment of the court in civil cases.*
- (5) *The practice, pleading, and proceedings in the civil action shall be in accordance with the Rules of Civil Procedure.*
- (6) *During the pendency of the civil action, the court may stay the order until it shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order, or remand the cause with directions to modify the order to conform to the provisions of this chapter. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.*

SECTION 19. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *A coalbed methane well penetrating one (1) or more workable coalbeds shall be drilled in a manner that will exclude, if practicable, all coalbed methane or coalbed methane pressure from the workable coalbed, except as is found in the workable coalbed itself. Each string of casing that is run through a workable coalbed shall be seated at least thirty (30) feet below the workable coalbed in twenty (20) feet of cement, mud, clay, or other nonporous material that will make an effective seal. If a second workable coalbed is found less than thirty (30) feet below the first workable coalbed, the casing shall be seated and mudded off as above provided at least thirty (30) feet below the second workable*

*coalbed. If gas is found between the two (2) workable coalbeds, it shall be treated as prescribed by this chapter. After any such string of casing has been properly seated, drilling may proceed immediately.*

- (2) *When a coalbed methane well is drilled through the horizon of a workable coalbed where the coal has been removed, the hole shall be drilled at least thirty (30) feet below the workable coalbed, and shall be of a size sufficient to permit the placing of a liner, which shall start not less than twenty (20) feet beneath the horizon of the workable coalbed and extend not less than twenty (20) feet above it. The largest sized casing to be used in the well shall be centrally placed within this liner. The liner may be welded to the casing to be used, and the space between the liner and the casing shall be filled with cement as the liner and casing are lowered into the hole. Cement shall be placed in the bottom of the hole to a depth of twenty (20) feet to form a sealed seat for both liner and casing. Following the setting of the liner, drilling may proceed. If it is necessary to drill through the horizon of two (2) or more workable coalbeds where the coal has been removed, the liner shall be started not less than twenty (20) feet below the lowest horizon penetrated and shall extend to a point not less than twenty (20) feet above the highest horizon penetrated.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

*If any coalbed methane well produces coalbed methane, all coal-protecting strings of casing shall remain in place during the life of the well. The top ends of all the strings shall be provided with casing heads or other suitable devices that will allow the free passage of coalbed methane and prevent filling the annular spaces outside the casing with dirt or debris.*

SECTION 21. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall abandon or remove casings from any coalbed methane well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with administrative regulations. Upon the department's plugging of an abandoned coalbed methane well in accordance with the requirements of this subsection, the department may sell all equipment removed from that well by sealed bid, or may include the equipment as part of compensation in the contract for the plugging of the well. Proceeds from the sale shall be deposited into the coalbed methane well plugging fund, established in subsection (3) of Section 24 of this Act.*
- (2) *Not less than thirty (30) days before advertising for bids for the plugging of coalbed methane wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name, Carter Coordinate, and state plane coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, the person shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that equipment. It shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner*

*described in this subsection or if a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this section.*

- (3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the coalbed methane well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.*
- (4) In conjunction with the plugging and abandonment of any coalbed methane well or the reworking of any coalbed methane well, the operator shall restore the surface and any improvements thereon to a condition as near as practicable to their condition prior to commencement of work. The surface owner and operator may waive this requirement in writing, subject to the approval of the department that the waiver is in accordance with its administrative regulations.*

SECTION 22. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall exercise supervision over the drilling, casing, plugging, and filling of all coalbed methane wells. The department shall exercise supervision over all mining operations in close proximity to any well. The department shall have access to the records and properties of coal, oil, gas and coalbed methane operators when necessary.*
- (2) The department may receive, or may file on its own motion, formal complaints that drilling or mining operations are being conducted contrary to the provisions of this chapter or to the order of the department or review board, and shall hold administrative hearings on the complaints, in accordance with KRS Chapter 13B. Following a hearing, the department shall issue a final order necessary to secure the proper administration of this chapter.*

SECTION 23. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) The department is hereby authorized to adopt all rules, administrative regulations, and amendments to implement the provisions of this chapter. All rules, administrative regulations, and amendments promulgated under this chapter shall be promulgated by the department after notice and a hearing. At all hearings held to consider any rules, administrative regulations, or amendments thereto, any interested person shall be entitled to be heard.*
- (2) All hearings shall be held at a time and place as is specified by the department according to rules and regulations promulgated under this chapter. A written record of each hearing shall be kept; however, if not at variance with KRS 61.870 to 61.884, the keeping of a record may be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under this chapter.*
- (3) Operators shall submit annual production information for each coalbed methane well on a form prescribed by the department.*

SECTION 24. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *When any person submits to the department an application for a permit to drill a coalbed methane well, or to reopen, deepen, or temporarily abandon any coalbed methane well which is not covered by a surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five thousand dollars (\$5,000). The bonds shall be made in favor of the Department of Natural Resources, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations and that all records required by the department be filed as specified. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of one hundred thousand dollars (\$100,000), covering all coalbed methane wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. The department may establish a bond in a sum greater than five thousand dollars (\$5,000) for an individual well or blanket bond in sum greater than one hundred thousand dollars (\$100,000) if the department determines that the particular circumstances of the drilling of the well or wells warrant an increase in the bond amount. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars (\$5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars (\$5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the coalbed methane well plugging fund, created in subsection (3) of this section, to be used in accordance with the purposes described therein.*
- (2) *A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operations of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.*
- (3) *All sums received through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the coalbed methane well plugging fund, which shall be in an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned coalbed methane wells coming within the authority of the department pursuant to this chapter. The plugging of any coalbed methane wells*

*pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.*

SECTION 25. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person to whom a permit is issued pursuant to this chapter shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:*
  - (a) *A copy of the driller's log certified to be true and accurate;*
  - (b) *The depth and thickness of all water zones encountered and logged;*
  - (c) *The depth of all showing of oil, gas, or coalbed methane;*
  - (d) *The depth and thickness of all coal seams encountered; and*
  - (e) *A true copy of all electrical surveys and similar logs and surveys taken. If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.*
- (2) *Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.*
- (3) *Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.*
- (4) *This section shall not apply to wells drilled or deepened as geological or structure test holes.*

SECTION 26. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *In all cases in which there has been a complete severance of the ownership of the coalbed methane from the ownership of the surface to be disturbed, the applicant for a coalbed methane well permit shall comply with all of the substantive requirements of KRS 353.5901 and 353.595.*
- (2) *In all cases other than a complete severance of the ownership of coalbed methane from the ownership of the surface to be disturbed, the applicant for a coalbed methane well shall submit to the department an operations and reclamation proposal at the time of filing an application for a permit to drill, deepen, or reopen a coalbed methane well. The proposal shall be filed on forms provided by the department and shall include:*
  - (a) *A proposal to prevent erosion of and sedimentation from the well site and all disturbed areas, including roads;*
  - (b) *A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks, and other storage facilities,*

*and any other information that may be required by the department. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities; and*

(c) *Any additional information that the department may require.*

SECTION 27. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Each coalbed methane well permit issued under this chapter shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a coalbed methane well is commenced prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant:*
  - (a) *Notifies the department in writing of the applicant's request for an extension;*
  - (b) *Notifies all coal interest holders originally entitled to receive a copy of the plat under Section 3 of this Act;*
  - (c) *Submits an affidavit, or verified statement, stating that the information in the original permit application is still correct; and*
  - (d) *Submits a fee for the extension in an amount equal to the permit fee required by Section 8 of this Act.*
- (2) *The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the coalbed methane well location under Section 4 of this Act nor to mediation under KRS 353.5901.*

SECTION 28. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

*In any case where title to subsurface minerals has been severed in such a way that title to natural gas underlying the tract and title to coal underlying the tract are in different persons, it shall be an affirmative defense to any action for willful trespass arising from the drilling, development, operation, and production of coalbed methane from any coal seam or gob area underlying the tract, that the operator of the coalbed methane well permitted, drilled, completed, and produced the coalbed methane well under color of title of any instrument, deed, or lease for oil and gas purposes from the gas owner, or any instrument, deed, or lease for coal mining purposes from the coal owner.*

SECTION 29. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, administrative regulation, or order promulgated or issued under this chapter, the department may bring suit against the person in the Circuit Court of the county where the violation occurred or is threatened, the Circuit Court in the county in which the defendant resides or in which any defendant resides if there is more than one (1) defendant, or the Franklin Circuit Court to restrain the person from continuing the violation or from carrying out the threatened violation. In the suit, the court shall have jurisdiction to grant without bond or other undertaking the prohibitory or mandatory injunction as the facts may warrant, including a temporary restraining order or injunction.*

- (2) *Whenever it appears that any person is violating any provision of this subchapter, or any rule, administrative regulation or order promulgated or issued hereunder, the Attorney General or any person who is adversely affected by the violation may bring suit to restrain the violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating a provision or any rule, administrative regulation, or order promulgated or issued under this chapter.*

SECTION 30. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in this chapter shall be construed as affecting, in any way, the right of any person to enforce or protect, under applicable law, his or her interest in water resources affected by a coalbed methane well or related operations.*
- (2) *The operator of a coalbed methane well shall replace the water supply of an owner of an interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the operation of a coalbed methane well.*

SECTION 31. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who violates any provision of this chapter shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.*
- (2) *Any person who continues to violate any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter after being notified in writing of the violation by the department, shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.*
- (3) *Any person who does any of the following for the purpose of evading or violating this chapter or any administrative regulation or order promulgated or issued under this chapter shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both:*
- (a) *Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by this chapter, or by any administrative regulation or order under this chapter;*
  - (b) *Omits or causes to be omitted from a report, record, account, or memorandum full, true, and correct entries and information as required by this chapter, or by any administrative regulation or order under this chapter; or*
  - (c) *Removes from this Commonwealth or destroys, mutilates, alters, or falsifies a report, record, account, or memorandum required by this chapter, or by any administrative regulation or order.*
- (4) *Any person who knowingly aids or abets any other person in the violation of any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter, shall be subject to the same penalty as that prescribed in this section for the violation by the other person.*



SECTION 32. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in this chapter shall be construed to preclude any coal interest holder from removing support of the surface and any structure or facilities thereon and other strata as such rights may exist in any severance deed or other contract.*
- (2) *Nothing in this chapter is intended to or shall be construed as superseding, impairing, abridging, or affecting any specific contractual rights or obligations now or hereafter existing between the respective owners of coal, oil, gas, or other minerals, or any interests therein.*
- (3) *Nothing in this chapter shall be construed to, or be used or interpreted to, determine ownership.*
- (4) *Nothing in this chapter shall be construed to, or be used or interpreted to, apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353 except for the wells that are to be converted to or operated as coalbed methane wells.*
- (5) *Nothing in this chapter shall be construed to authorize any limitation of production of coalbed methane from any coalbed methane well, lease, drilling unit, pool, field, or property to prevent or control economic waste or to limit production to market demand.*
- (6) *This chapter shall be liberally construed so as to effectuate the declaration of public policy set forth in Section 1 of this Act.*
- (7) *Coalbed methane wells shall not be subject to the provisions of KRS Chapter 353, except as expressly provided in this chapter.*
- (8) *Gathering lines associated with coalbed methane wells shall be regulated under KRS 353.500(2) and the regulations promulgated thereunder.*

**Approved April 7, 2004**