

**353.651 Vertical and horizontal deep wells -- Establishment and regulation of drilling units -- Pooling of interests -- Exceptions.**

The following provisions of this section and the administrative regulations promulgated pursuant thereto shall apply to any vertical deep well and any horizontal deep well as indicated:

- (1) Drilling units for vertical deep wells:
  - (a) The commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, regulate the drilling and location of vertical deep wells in a pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his or her fair and equitable share of the recoverable oil and gas in the pool;
  - (b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, establish drilling units for vertical deep wells in each pool. The spacing of vertical deep wells in proved oil and gas fields shall be governed by administrative regulations promulgated for that particular field or other administrative regulation promulgated by the commission. Vertical deep wells drilled in areas not covered by special field administrative regulations shall be governed by statewide administrative regulations promulgated by the commission or orders of the commission issued after a hearing;
  - (c) Each vertical deep well permitted to be drilled in any drilling unit shall be drilled in accordance with:
    1. The administrative regulations promulgated by the commission; and
    2. A spacing pattern fixed by the commission for the well or the pool in which the vertical deep well is located, as applicable, with any exceptions that may be reasonably necessary where it is shown, in accordance with administrative regulations promulgated by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at the location unduly burdensome, or other similar cause. Whenever an exception is granted, the commission shall take action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception;
  - (d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one (1) vertical deep well so as to produce the reasonable maximum recoverable oil or gas in the area, unless an exception is granted in accordance with administrative regulations

promulgated by the commission; and

- (e) An order establishing a drilling unit for a vertical deep well may be modified, altered, extended, amended, or vacated by the commission after notice and hearing as prescribed above.
- (2) Drilling units for horizontal deep wells:
- (a) For the prevention of waste and for the protection and enforcement of the correlative rights of the owners in a pool, the commission shall, after notice and hearing conducted in accordance with KRS Chapter 13B and with the administrative regulations of the commission, establish drilling units for horizontal deep wells. Drilling units shall be based on the information provided to or requested by the commission;
  - (b) Each horizontal deep well permitted to be drilled on a drilling unit established by the commission shall be drilled in accordance with the administrative regulations promulgated by the commission and any orders of the commission; and
  - (c) The establishment of any horizontal deep well unit shall be on terms that are fair, reasonable, equitable, and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and the royalty owners based on the evidence before the commission.
- (3) Pooling of interests in drilling units:
- (a) When two (2) or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing conducted in accordance with KRS Chapter 13B, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing of production therefrom. Each pooling order shall be upon terms and conditions which are just and reasonable;
  - (b) All operations, including, but not limited to, the commencement, drilling, or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of those operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from the tract by a deep well drilled thereon;
  - (c) Any pooling order under the provisions of subsection (3) of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate

the deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, and abandoning the deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate the deep well shall be determined by competitive bids;

- (d) Upon request, any pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable;
  - (e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating a deep well as provided in the commission's order, then the operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of the nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions thereof, or exclusive of the prevailing royalty of the production attributable to all unleased tracts or portions thereof, until the market value of the nonparticipating owner's share of the production, exclusive of any royalty, overriding royalty or the prevailing royalty of production, equals three (3) times the share of the costs payable by or charged to the interest of the nonparticipating owner; and
  - (f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.
- (4) This section shall not apply to wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation.

**Effective:** June 24, 2015

**History:** Amended 2015 Ky. Acts ch. 21, sec. 16, effective June 24, 2015. -- Amended 2006 Ky. Acts ch. 158, sec. 1, effective July 12, 2006. -- Amended 2000 Ky. Acts ch. 139, sec. 4, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 318, sec. 343, effective July 15, 1996. -- Created 1974 Ky. Acts ch. 45, sec. 5.