

## **805 KAR 1:080. Gas storage reservoirs; drilling, plugging in vicinity.**

RELATES TO: KRS 349.035, 353.500, 353.520, 353.540, 353.550, 353.560

STATUTORY AUTHORITY: KRS 349.115, 353.540, 353.670

NECESSITY, FUNCTION, AND CONFORMITY: KRS 349.115 and 353.540 authorize the Department for Natural Resources to promulgate administrative regulations to implement the Commonwealth's oil, gas, and coalbed methane programs. This administrative regulation establishes requirements for the protection of the integrity of gas storage reservoirs by requiring certain techniques of drilling, casing, operating, and plugging be applied while operating in the vicinity of gas storage reservoirs.

Section 1. Purpose. This administrative regulation is designed for the protection of gas storage reservoirs, which are natural resources of the state, and a person, firm, or corporation shall not cause physical damage to, or create a hazardous condition threatening the existence of, a reservoir in any manner as to make any reservoir less susceptible for use for gas storage.

- (1) Any well penetrating, drilled to a geologic stratum overlying, or drilled in the vicinity of an underground gas storage reservoir shall be maintained at all times in a manner that shall both:
  - (a) Exclude the encroachment of oil, gas, or water into a reservoir; and
  - (b) Protect the reservoir from a blowout or waste of gas during the drilling of and after completion or plugging of the well.
- (2) In addition, this administrative regulation has as its purpose the equitable adjustment of correlative rights of gas storage owners and oil and gas operators.

Section 2. Establishment of a Gas Storage Reservoir.

- (1) Before an area may be declared to contain one (1) or more gas storage reservoirs for the purpose of this administrative regulation the gas storage operator shall file with the Director of the Division of Oil and Gas for each reservoir, a:
  - (a) Certificate of convenience, issued by the Federal Power Commission or its successor, if issued;
  - (b) Certificate of convenience issued by the Kentucky Public Service Commission or its successor, if issued; or
  - (c) Bona fide declaration of intent prepared by the gas storage operator to develop a gas storage facility.
- (2)
  - (a) The filing, established in subsection (1) of this section, shall be accompanied by a map, prepared on the scale of one (1) inch equals 2,000 feet and using the appropriate seven and one-half (7 1/2) minute topographic map as the base.
  - (b) The map shall include in detail the properties on which storage rights have been or are being obtained, whether by purchase or condemnation and of the storage reservoir protection zone as suggested by the storage operator.
  - (c) This protection zone shall not be wider than 2,000 feet from the nearest property on which gas storage rights have been or are being obtained. The width shall be subject to the approval of the division based on the characteristics of the reservoir and the maximum anticipated storage pressure.
- (3) The required map shall be refiled at any time that storage rights on additional acreage are acquired or at any time that acreage on which storage rights have been acquired is eliminated.
- (4) Gas shall not be moved and stored until the above cited filing is made with the director. This shall not include moved and stored gas that is to be used to determine whether or not underground gas storage is feasible.

Section 3. Application for Permit to Drill, Deepen or Reopen a Well on Property for Which Gas Storage Rights are Acquired.

(1) Before drilling, deepening, or reopening a well on a property for which gas storage rights have been acquired, the well operator shall, at the time of filing with the division, also forward to the gas storage operator by registered or certified mail, or by personal service a copy of the application and plat.

(2) On a property for which there is an outstanding oil and gas lease or on a property on which producing wells are located, it shall be the responsibility of the gas storage operator to notify the well operator at the time storage rights are acquired of the acquisition and that a copy of all future applications to drill, deepen, or reopen wells by the well operator shall be provided to the gas storage operator.

Section 4. Application for Permit to Drill, Deepen, or Reopen a Well on Property for Which Gas Storage Rights are Not Acquired but That Lies Within the Storage Reservoir Protection Zone. Upon an application for permit to drill, deepen, or reopen a well being received by the division in which the location of the proposed well will fall within the storage reservoir protection zone, the division shall notify the well operator and the gas storage operator of the receipt of the application by first class mail, postage prepaid.

Section 5. Objection and Hearing.

(1) Applications to drill, deepen, or reopen a well on a property on which gas storage rights have been or are being acquired or upon any property that lies within the storage reservoir protection zone shall be held for five (5) days after receipt.

(2)

(a) During the time established in subsection (1) of this section, the gas storage operator may file with the division specific objections to the proposed well. If objections are filed, the gas storage operator shall notify the well operator by registered certified mail or by personal service.

(b) The department, in accordance with KRS 353.700, shall set a time and place for the hearing. The hearing time shall be no more than ten (10) days after the end of the five (5) day period.

(c) At the hearing, the division, well operator, and the gas storage operator shall consider the objections and agree to the drilling proposal as submitted or agree to changes in the drilling proposal that meets the approval of the division consistent with 805 KAR Chapter 1. Any agreed upon amendments to the drilling proposal shall be included on an amended drilling application and filed with the division.

(d) The division, upon receipt of the amended application, shall issue to the well operator a drilling permit approving the drilling of the well.

(e) If the gas storage operator and the well operator are unable to agree at the hearing, the division shall issue to the well operator a permit to drill the well either as originally proposed or with the amendments to the proposal as the division determines appropriate to protect the underground gas storage reservoir and prevent the loss of gas without unnecessarily restricting drilling operations.

(3) If the gas storage operator and the well operator cannot agree on the proposal under which the well is to be drilled, completed, and plugged, then the division shall in its order specify what costs, if any, in excess of costs normally expended in the drilling, completion, and plugging of the well shall be borne by the gas storage operator and shall specify when and in what manner payment shall be made.

(4)

(a) The gas storage operator may waive the ability to object established in subsection (2)(a) of this section by letter, telegram, or telephone, if the telephone notice of waiver is followed by a written waiver, to the division on:

1. Any one (1) well;

2. Group of wells;
  3. All wells to be drilled by a well operator; or
  4. All wells to be drilled in a specific area or on a specific lease.
- (b) If the waiver or waivers are filed with the division, and if the public interest is being served, then the division shall issue the permit.

Section 6. Notice to Well Operator. The gas storage operator shall give the well operator a notice of intention to drill, deepen, or reopen a well in the manner established in Section 3 of this administrative regulation. Notice shall be required only to the well operator in possession at the time rights of storage are acquired or a successor in interest if the latter notifies the gas storage operator in writing of the acquisition. The well operator shall have the same rights and obligations as the gas storage operator with respect to objections and hearing as detailed in Section 5 of this administrative regulation.

Section 7. Notice of Intention to Plug Wells.

- (1)
  - (a) Prior to plugging a well, a well operator shall notify the gas storage operator and the division of the intention to properly plug and abandon the well if the well is drilled through or penetrates:
    1. An underground gas storage reservoir; or
    2. The same stratigraphic horizon as the gas storage reservoir in the storage reservoir protection zone.
  - (b) The notice shall be given in time for the representatives of the gas storage operator and the division to have the opportunity to be present at the plugging and filling of the well. If representatives do not appear, the well operator may proceed, at the time fixed in the notice, to plug and fill the well.
- (2)
  - (a) Upon receipt of notice of intention to properly plug and abandon the gas well, the gas storage operator may, after determining from the well operator the physical condition of the well, elect to allow the operator to only properly plug and abandon the well or bear the entire cost of proper plugging and abandonment.
  - (b) If the gas storage operator elects to properly plug and abandon the well or bear the entire cost of proper plugging and abandonment, the gas storage operator shall provide notice in writing to the gas well operator and the division.
  - (c) Upon receipt of the notice from the gas storage operator, the gas well operator shall advise in writing both the gas storage operator and the division of the condition of the well, of any equipment or pipe that may be in the well and the existence and type of any equipment or materials that have been lost in the hole.
  - (d) Upon receipt by the division of the notice required of the gas storage operator established in paragraph (a) of this subsection and the advice required of the well operator in paragraph (c) of this subsection, the division shall cause the well operator's bond to be released and the well shall be placed under the bond of the gas storage operator.
- (3) Once the plugging and filling have been completed by either the gas well operator or the gas storage operator, an affidavit establishing the time and manner in which the well was plugged shall be made by the operator as established in paragraphs (a) and (b) of this subsection.
  - (a) The affidavit shall be made on the Affidavit to Time and Manner of Plugging and Filling Well, Form OG-38, incorporated by reference in 805 KAR 1:060.
  - (b) One (1) copy of the affidavit shall be retained by the person that caused the well to be properly plugged and abandoned, one (1) mailed to the gas storage operator or the well operator, and one (1) to the division.

Section 8. Drilling Against High Reservoir Pressures. If possible, the drilling into or through storage reservoirs shall be conducted when the reservoir pressure is equal to or less than the original formation pressure and the original formation pressure shall be provided by the gas storage operator.

Section 9. Nothing in this administrative regulation shall be construed to prohibit a well operator or a gas storage operator from drilling a well that they would otherwise have the right to drill.

(O&G-M&M-7; 1 Ky.R. 1071; eff. 6-11-1975; Crt eff. 6-27-2018; 46 Ky.R. 670, 1497, 2056; eff. 2-3-2020.)