

# WEST VIRGINIA CODE: §22-9-5

## **§22-9-5. Obligations to be performed by persons operating storage reservoirs.**

(a) Any person who, on or after June 8, 1955, is operating a storage reservoir which underlies or is within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall:

(1) Use every known method which is reasonable under the circumstances for discovering and locating all wells which have or may have been drilled into or through the storage stratum in that acreage which is within the outside coal boundaries of such operating coal mine and which overlies the storage reservoir or the reservoir protective area;

(2) Plug or recondition, in the manner provided by sections twenty-three and twenty-four, article six of this chapter and subsection (e) of this section, all known wells (except to the extent otherwise provided in subsections (e), (f), (g) and (h) of this section) drilled into or through the storage stratum and which are located within that portion of the acreage of the operating coal mine overlying the storage reservoir or the reservoir protective area: Provided, That where objection is raised as to the use of any well as a storage well, and after a conference or hearing in accordance with section ten of this article it is determined, taking into account all the circumstances and conditions, that such well should not be used as a storage well, such well shall be plugged: Provided, however, That if, in the opinion of the storage operator, the well to which such objection has been raised may at some future time be used as a storage well, the storage operator may recondition and inactivate such well instead of plugging it, if such alternative is approved by the director after taking into account all of the circumstances and conditions.

The requirements of subdivision (2) of this subsection shall be deemed to have been fully complied with if, as the operating coal mine is extended, all wells which, from time to time, come within the acreage described in said subdivision (2) are reconditioned or plugged as provided in subsection (e) or (f) of this section and in section twenty-four, article six of this chapter so that by the time the coal mine has reached a point within two thousand linear feet of any such wells, they will have been reconditioned or plugged so as to meet the requirements of said subsection (e) or (f) and of said section twenty-four of article six.

(b) Any person operating a storage reservoir referred to in subsection (a) of this section who has not already done so pursuant to the provisions of former article four, chapter twenty-two-b of this code, shall within sixty days after the effective date of this article file with the director and furnish a copy to the person operating the affected operating coal mine, a verified statement setting forth:

(1) That the map and any supplemental maps required by subsection (a), section two of this article have been prepared and filed in accordance with section two;

(2) A detailed explanation of what the storage operator has done to comply with the requirements of subdivisions (1) and (2), subsection (a) of this section and the results thereof;

(3) Such additional efforts, if any, as the storage operator is making and intends to make to locate all oil and gas wells; and

(4) Any additional wells that are to be plugged or reconditioned to meet the requirements of subdivision (2), subsection (a) of this section.

If such statement is not filed by the storage reservoir operator within the time specified herein, the director shall summarily order such operator to file such statement.

(c) Within one hundred twenty days after the receipt of any such statement, the director may, and shall, if so requested by either the storage operator or the coal operator affected, direct that a conference be held in accordance with section ten of this article to determine whether the information as filed indicates that the requirements of section two of this article and of subsection (a) of this section have been fully complied with. At such conference, if any person shall be of the opinion that such requirements have not been fully complied with, the parties shall attempt to agree on what additional things are to be done and the time within which they are to be completed, subject to the approval of the director, to meet the said requirements.

If such agreement cannot be reached, the director shall direct that a hearing be held in accordance with section ten of this article. At such hearing the director shall determine whether the requirements of said section two of this article and of subsection (a) of this section have been met and shall issue an order setting forth such determination. If the director shall determine that any of the said requirements have not been met, the order shall specify, in detail, both the extent to which such requirements have not been met, and the things which the storage operator must do to meet such requirements. The order shall grant to the storage operator such time as is reasonably necessary to complete each of the things which such operator is directed to do. If, in carrying out said order, the storage operator encounters conditions which were not known to exist at the time of the hearing and which materially affect the validity of said order or the ability of the storage operator to comply with the order, the storage operator may apply for a rehearing or modification of said order.

(d) Whenever, in compliance with subsection (a) of this section, a storage operator, after the filing of the statement provided for in subsection (b) of this section, plugs or reconditions a well, such operator shall so notify the director and the coal operator affected in writing, setting forth such facts as will indicate the manner in which the plugging or reconditioning was done. Upon receipt thereof, the coal operator affected or the director may request a conference or hearing in accordance with section ten of this article.

(e) In order to meet the requirements of subsection (a) of this section, wells which are to be plugged shall be plugged in the manner specified in section twenty-four, article six of this

chapter. When a well located within the storage reservoir or the reservoir protective area has been plugged prior to March 10, 1955, and on the basis of the data, information and other evidence submitted to the director, it is determined that: (1) Such plugging was done in the manner required in section twenty-four, article six of this chapter; and (2) said plugging is still sufficiently effective to meet the requirements of this article, the obligations imposed by subsection (a) of this section as to plugging said well shall be considered fully satisfied.

(f) In order to meet the requirements of subsection (a) of this section, wells which are to be reconditioned shall be cleaned out from the surface through the storage horizon and the following casing strings shall be pulled and replaced with new casing, using the same procedure as is applicable to drilling a new well as provided for in sections eighteen, nineteen and twenty, article six of this chapter: (1) The producing casing; (2) the largest diameter casing passing through the lowest workable coal seam unless such casing extends at least twenty-five feet below the bottom of such coal seam and is determined to be in good physical condition: Provided, That the storage operator may, instead of replacing the largest diameter casing, replace the next largest casing string if such casing string extends at least twenty-five feet below the lowest workable coal seam; and (3) such other casing strings which are determined not to be in good physical condition. In the case of wells to be used for gas storage, the annular space between each string of casing, and the annular space behind the largest diameter casing to the extent possible, shall be filled to the surface with cement or aquagel or such equally nonporous material as is approved by the director pursuant to section eight of this article. At least fifteen days prior to the time when a well is to be reconditioned the storage operator shall give notice thereof to the coal operator or owner and to the director setting forth in such notice the manner in which it is planned to recondition such well and any pertinent data known to the storage operator which will indicate the then existing condition of such well. In addition the storage operator shall give the coal operator or owner and such representative of the director as the director shall have designated at least seventy-two hours notice of the time when such reconditioning is to begin. The coal operator or owner shall have the right to file, within ten days after the receipt of the first notice required herein, objections to the plan of reconditioning as submitted by the storage operator. If no such objections are filed or if none is raised by the director within such ten-day period, the storage operator may proceed with the reconditioning in accordance with the plan as submitted. If any such objections are filed by the coal operator or owner or are made by the director, the director shall fix a time and place for a conference in accordance with section ten of this article at which conference the well operator and the person who has filed such objections shall endeavor to agree upon a plan of reconditioning which meets the requirements herein and which will satisfy such objections. If no plan is approved at such conference, the director shall direct that a hearing be held in accordance with section ten of this article and, after such hearing, shall by an appropriate order determine whether the plan as submitted meets the requirements set forth herein, or what changes, if any, should be made to meet such requirements. If, in reconditioning a well in accordance with said plan, physical conditions are encountered which justify or necessitate a change in said plan, the storage operator or the coal operator

may request that the plan be changed. If the storage operator and the coal operator cannot agree upon such change, the director shall arrange for a conference or hearing in accordance with section ten of this article to determine the matter in the same manner as set forth herein in connection with original objections to said plan. Application may be made to the director in the manner prescribed in section eight of this article for approval of an alternative method of reconditioning a well. When a well located within the storage reservoir or the reservoir protective area has been reconditioned prior to March 10, 1955, or was so drilled and equipped previously and on the basis of the data, information and other evidence submitted to the director, it is determined that: (1) Such reconditioning or previous drilling and equipping was done in the manner required in this subsection, or in a manner approved as an alternative method in accordance with section eight of this article and (2) such reconditioning or previous drilling and equipping is still sufficiently effective to meet the requirements of this article, the obligations imposed by subsection (a) as to reconditioning said well shall be considered fully satisfied. Where a well requires emergency repairs this subsection shall not be construed to require the storage operator to give the notices specified herein before making such repairs.

(g) When a well located within the reservoir protective area is a producing well in a stratum below the storage stratum the obligations imposed by subsection (a) of this section shall not begin until such well ceases to be a producing well.

(h) When a well within a storage reservoir or the reservoir protective area penetrates the storage stratum but does not penetrate the coal seam being mined by an operating coal mine the director may, upon application of the operator of such storage reservoir, exempt such well from the requirements of this section. Either party affected may request a conference and hearing with respect to the exemption of any such well in accordance with section ten of this article.

(i) In fulfilling the requirements of subdivision (2), subsection (a) of this section with respect to a well within the reservoir protective area, the storage operator shall not be required to plug or recondition such well until he has received from the coal operator written notice that the mine workings will within the period stated in such notice, be within two thousand linear feet of such well. Upon the receipt of such notice the storage operator shall use due diligence to complete the plugging or reconditioning of such well in accordance with the requirements of this section and of section twenty-four, article six of this chapter. If the said mine workings do not, within a period of three years after said well has been plugged, come within two thousand linear feet of said well, the coal operator shall reimburse the storage operator for the cost of said plugging, provided such well is still within the reservoir protective area as of that time.

(j) When retreat mining approaches a point where within ninety days it is expected that such retreat work will be at the location of the pillar surrounding an active storage well the coal operator shall give written notice of such approach to the storage operator and by agreement said parties shall determine whether it is necessary or advisable to inactivate effectively said well temporarily. The well shall not be reactivated until a reasonable period

has elapsed, such reasonable period to be determined by the said parties. In the event that the said parties cannot agree upon either of the foregoing matters, such question shall be submitted to the director for decision in accordance with section ten of this article. The number of wells required to be temporarily inactivated during the retreat period shall not be such as to materially affect the efficient operation of such storage pool. This provision shall not preclude the temporary inactivation of a particular well where the practical effect of inactivating such well is to render the pool temporarily inoperative.

(k) The requirements of subsections (a), (l) and (m) of this section shall not apply to the injection of gas into any stratum when the sole purpose of such injection (such purpose being herein referred to as testing) is to determine whether the said stratum is suitable for storage purposes: Provided, That such testing shall be conducted only in compliance with the following requirements:

(1) The person testing or proposing to test shall comply with all the provisions and requirements of section two of this article and shall verify the statement required to be filed thereby;

(2) If any part of the proposed storage reservoir is under or within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the proposed storage reservoir or the reservoir protective area, the storage operator shall give at least six months' written notice to the director and to the coal operator of the fact that injection of gas for testing purposes is proposed;

(3) The coal operator affected may at any time file objections with the director in accordance with subsection (d), section nine of this article. If any such objections are filed by the coal operator or if the director shall have any objections, the director shall fix a time and place for a conference in accordance with section ten of this article, not more than ten days from the date of the notice to the storage operator, at which conference the storage operator and the person who has filed such objections shall attempt to agree, subject to the approval of the director, on the questions involved. If such agreement cannot be reached at such conference, the director shall direct that a hearing be held in accordance with section ten of this article. At such hearing the director shall determine and set forth in an appropriate order the conditions and requirements which the director shall deem necessary or advisable in order to prevent gas from such storage reservoir from entering any operating coal mine. The storage operator shall comply with such conditions and requirements throughout the period of the testing operations. In determining such conditions and requirements the director shall take into account the extent to which the matters referred to in subsection (a) of this section have been performed. If, in carrying out said order, either the storage operator or the coal operator encounters or discovers conditions which were not known to exist at the time of the hearing and which materially affect said order or the ability of the storage operator to comply with the order, either operator may apply for a rehearing or modification of said order;

(4) Where, at any time, a proposed storage reservoir being tested comes under or within two

thousand linear feet of an operating coal mine either because of the extension of the storage reservoir being tested or because of the extension or establishment or reestablishment of the operating coal mine, then and at the time of any such event the requirements of this subsection shall become applicable to such testing.

(l) Any person who proposes to establish a storage reservoir under, or within two thousand linear feet of an operating coal mine which is operating in a coal seam that extends over the storage reservoir or the reservoir protective area, shall, prior to establishing such reservoir, in addition to complying with the requirements of section two of this article and subsection (a) of this section, file the verified statement required by subsection (b) of this section and fully comply with such order or orders, if any, as the director may issue in the manner provided for under subsection (b) or (c) of this section before beginning the operation of such storage reservoir. After the person proposing to operate such storage reservoir shall have complied with such requirements and shall have thereafter begun to operate such reservoir, such person shall continue to be subject to all of the provisions of this article.

(m) When a gas storage reservoir, (1) was in operation on June 8, 1955, and at any time thereafter it is under or within two thousand linear feet of an operating coal mine, or (2) when a gas storage reservoir is put in operation after June 8, 1955, and at any time after such storage operations begin it is under or within two thousand linear feet of an operating coal mine, then and in either such event, the storage operator shall comply with all of the provisions of this section except that the time for filing the verified statement under subsection (b) shall be sixty days after the date stated in the notice filed by the coal operator under subsection (b) or (c), section four of this article as to when the operating coal mine will be at a point within two thousand linear feet of such reservoir: Provided, That if the extending of the projected workings or the proposed establishment or reestablishment of the operating coal mine is delayed after the giving of the notice provided in subsections (b) and (c), section four of this article, the coal operator shall give notice of such delay to the director and the director shall, upon the request of the storage operator, extend the time for filing such statement by the additional time which will be required to extend or establish or reestablish such operating coal mine to a point within two thousand linear feet of such reservoir. Such verified statement shall also indicate that the map referred to in subsection (a), section two of this article has been currently amended as of the time of the filing of such statement. The person operating any such storage reservoir shall continue to be subject to all of the provisions of this article.

(n) If, in any proceeding under this article, the director shall determine that any operator of a storage reservoir has failed to carry out any lawful order of the director issued under this article, the director shall have authority to require such storage operator to suspend the operation of such reservoir and to withdraw the gas therefrom until such violation is remedied. In such an event the gas shall be withdrawn under the following conditions. The storage operator shall remove the maximum amount of gas which is required by the director to be removed from the storage reservoir that can be withdrawn in accordance with recognized engineering and operating procedures and shall proceed with due diligence insofar as existing facilities used to remove gas from the reservoir will permit.

(o) In addition to initial compliance with the other provisions of this article and any lawful orders issued thereunder, it shall be the duty at all times of the person owning or operating any storage reservoir which is subject to the provisions of this article to keep all wells drilled into or through the storage stratum in such condition and to operate the same in such manner as to prevent the escape of gas into any coal mine therefrom, and to operate and maintain such storage reservoir and its facilities in such manner and at such pressures as will prevent gas from escaping from such reservoir or its facilities into any coal mine: Provided, That this duty shall not be construed to include the inability to prevent the escape of gas where such escape results from an act of God or an act of any person not under the control of the storage operator other than in connection with any well which the storage operator has failed to locate and to make known to the director: Provided, however, That if any escape of gas into a coal mine does result from an act of God or an act of any person not under the control of the storage operator, the storage operator shall be under the duty of taking such action thereafter as is reasonably necessary to prevent further escape of gas into the coal mine.