

1 for specified parameters set out in section twelve-a of this article. This limitation is applicable to
2 those wells, developed springs, dwellings or agricultural buildings that existed on the date a
3 notice to the surface owner of planned entry for surveying or staking as provided in section ten
4 of this article or a notice of intent to drill a horizontal well as provided in subsection (b), section
5 sixteen of this article was provided, whichever occurs first, and to any dwelling under
6 construction prior to that date. This limitation may be waived by written consent of the surface
7 owner transmitted to the department and recorded in the real property records maintained by the
8 clerk of the county commission for the county in which such property is located. Furthermore,
9 the well operator may be granted a variance by the secretary from these distance restrictions
10 upon submission of a plan which identifies the sufficient measures, facilities or practices to be
11 employed during well site construction, drilling and operations. The variance, if granted, shall
12 include terms and conditions the department requires to ensure the safety and protection of
13 affected persons and property. The terms and conditions may include insurance, bonding and
14 indemnification, as well as technical requirements.

15 (b) No well pad may be prepared or well drilled within one hundred feet measured
16 horizontally from any perennial stream, natural or artificial lake, pond or reservoir, or a wetland,
17 or within three hundred feet of a naturally reproducing trout stream. No well pad may be located
18 within one thousand feet of a surface or ground water intake of a public water supply. The
19 distance from the public water supply as identified by the department shall be measured as
20 follows:

21 (1) For a surface water intake on a lake or reservoir, the distance shall be measured from
22 the boundary of the lake or reservoir.

23 (2) For a surface water intake on a flowing stream, the distance shall be measured from a
24 semicircular radius extending upstream of the surface water intake.

1 (3) For a groundwater source, the distance shall be measured from the wellhead or spring.
2 The department may, in its discretion, waive these distance restrictions upon submission of a
3 plan identifying sufficient measures, facilities or practices to be employed during well site
4 construction, drilling and operations to protect the waters of the state. A waiver, if granted, shall
5 impose any permit conditions as the secretary considers necessary.

6 (c) Notwithstanding the foregoing provisions of this section, nothing contained in this
7 section prevents an operator from conducting the activities permitted or authorized by a Clean
8 Water Act Section 404 permit or other approval from the United States Army Corps of
9 Engineers within any waters of the state or within the restricted areas referenced in this section.

10 (d) The well location restrictions set forth in this section shall not apply to any well on a
11 multiple well pad if at least one of the wells was permitted or has an application pending prior to
12 the effective date of this article.

13 (e) The secretary shall, by December 31, 2012, report to the Legislature on the noise,
14 light, dust and volatile organic compounds generated by the drilling of horizontal wells as they
15 relate to the well location restrictions regarding occupied dwelling structures pursuant to this
16 section. Upon a finding, if any, by the secretary that the well location restrictions regarding
17 occupied dwelling structures are inadequate or otherwise require alteration to address the items
18 examined in the study required by this subsection, the secretary shall have the authority to
19 propose for promulgation legislative rules establishing guidelines and procedures regarding
20 reasonable levels of noise, light, dust and volatile organic compounds relating to drilling
21 horizontal wells, including reasonable means of mitigating such factors, if necessary.

22 **§22-6A-12a. Air, noise, light, dust.**

23 (a) This section does not apply to or affect any well work permitted for a horizontal well
24 prior to the enactment of this section, or to permit applications pending prior to the effective date

1 of this section: *Provided*, That if actual monitoring of a residence near a well to which this
2 section is otherwise inapplicable shows that parameters of this section are exceeded, the
3 secretary shall require the implementation of best available control technology so that the
4 parameters do not continue to be exceeded..

5 (b) At each site, the operator shall set up continuous real-time monitoring of air, noise,
6 light and dust and particulates at the residence or other point of impact that is closest or most
7 likely to be impacted by the well work, including traffic associated with the site. The operator
8 shall continuously monitor those parameters in real time. If there is a 5% chance or greater that
9 the monitored levels could exceed any of the required parameters as determined by continuous
10 process control analysis during any running twenty four hour averaging period, the operator shall
11 implement the best available control technology available to limit the levels. The monitored
12 levels need to be continuously available by wireless or other transmission to those persons or
13 entities within fifteen hundred feet of the limit of disturbance who request it. When levels
14 exceed parameters, alerts shall be sent to those persons or entities. The data shall be available to
15 the public for study. Unless altered by legislative rule, the parameters shall be:

16 (1) for noise during site construction, 70 dBA average an hour.

17 (2) for noise at all other times, 55 dBA at any time.

18 (3) for dust, the national ambient air quality standard level for a twenty-four hour period
19 and no visible dust on residences or crops.

20 (4) for air, the Minimal Risk Levels for chronic (365 days or more) exposure of organic
21 compounds set by the Agency for Toxic Substances and Disease Registry of the Centers for
22 Disease Control and Prevention of the United States Department of Health and Human Services.

23 (c) No light from artificial illumination, flares or other sources shall shine directly on any
24 residence or livestock or structure containing livestock.

1 (d) Notwithstanding the provisions of subsection (a) of this section if, after completion of
2 well work, production or production facilities cause a violation of the standards set out in
3 subsection (b) at a residence, then the operator shall implement the best available control
4 technology available to limit the levels that violate the standards.

5
6 NOTE: The purpose of this bill is to implement the
7 recommendations arising out of the studies required by the
8 passage of sections twelve, twenty-two and twenty-three of the
9 Natural Gas Horizontal Well Control Act passed by the Legislature
10 December 14, 2011.

11 1. The bill requires continuous monitoring of air, noise,
12 dust and particulates and requires the operator to undertake the
13 best available control technology if standards for air, noise,
14 dust or particulates are exceeded. See §22-6A-12a.

15 2. The bill also changes the set back from horizontal well
16 work activity to a residence to 1500 feet from the limit of well
17 work disturbance, instead of 625 feet from the center of the pad,
18 unless the operator can show it will avoid exceeding set limits
19 for specified parameters at the residence. See §22-6A-12

20
21
22 Strike-throughs indicate language that would be stricken
23 from the present law, and underscoring indicates new language
24 that would be added.
25
26