

W. Va. Code 22-6A-12

Well Location Restrictions



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W. Va. Code 22-6A-12 Well Location Restrictions

W. Va. Code 22-6A-12(d)

The well location restrictions set forth in this section shall not apply to any well on a multiple well pad if at least one of the wells was permitted prior to the effective date of this article.



W. Va. Code 22-6A-12(a) - Well Location Restrictions

TYPE A RESTRICTION	Distance	Measured From:
Existing Water Well	250 Feet	Well
Developed Spring Used for Human or Domestic Animal Consumption	250 Feet	Well
Occupied Dwelling Structure	625 Feet	Center of Well Pad
Building 2,000 square feet or larger used to House or Shelter Cattle or Poultry Husbandry	625 Feet	Center of Well Pad

This limitation is applicable to those wells, developed springs, dwellings or agricultural buildings that existed on the date a notice to the surface owner of planned entry for surveying or staking as provided in section ten of this article or a notice of intent to drill a horizontal well as provided in subsection (b), section sixteen of this article was provided, whichever occurs first, and to any dwelling under construction prior to that date.



W. Va. Code 22-6A-12(a) - Well Location Restrictions Waiver

- This limitation may be **waived by written consent of the surface owner** transmitted to the department and recorded in the real property records maintained by the clerk of the county commission for the county in which such property is located.

Variance

- The well operator **may** be granted a variance by the secretary from these distance restrictions upon submission of a plan which identifies the sufficient measures, facilities or practices to be employed.



W. Va. Code 22-6A-12(a) - Well Location Restrictions

Variance Terms & Conditions

The variance, if granted, shall include terms and conditions the department requires to ensure the safety and protection of affected persons and property.

The terms and conditions may include:

- insurance,
- bonding and indemnification,
- as well as technical requirements.

Variance Procedure

Chief shall provide notice and opportunity to comment on proposed action to:

1. Surface of record; and
2. Any coal owner, operator or lessee.

The notice timeline for such variance is at the discretion of the Chief.



W. Va. Code 22-6A-12(b) - Well Location Restrictions

TYPE B RESTRICTION	Distance	Measured From:
Perennial Stream	100 Feet	Horizontally from Limit of Disturbance "LOD"
Natural or Artificial Lake	100 Feet	Horizontally from Limit of Disturbance "LOD"
Pond or Reservoir	100 Feet	Horizontally from Limit of Disturbance "LOD"
Wetland	100 Feet	Horizontally from Limit of Disturbance "LOD"
Naturally Reproducing Trout Stream	300 Feet	Horizontally from Limit of Disturbance "LOD"
Surface Water Intake of a Public Water Supply	1000 Feet	Boundary of Lake/Reservoir or Flowing Stream: Measured from a semicircular radius extending upstream of surface water intake
Ground Water Intake of a Public Water Supply	100 Feet	Wellhead or Spring

Waiver

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

Waiver Process

- Operator shall submit a Waiver Request to OOG that outlines:
 1. **Why** the Operator can not comply with the well location restriction;
 2. **What** the Operator will establish on the pad to safeguard against potential impacts;
 - **Strenuous Construction & Operational Requirements;**
 - **Additional Liner System Safeguards;**
 - **Water Quality Monitoring Requirements;** and
 - **Additional Engineer Certification Requirements;**
- OOG will review the waiver proposal and submit additional requirements or questions for the Operator to answer;
- Operator will conduct a presentation to OOG which details the entire request;
- OOG will make a final decision and issue a Waiver Order either approving or denying such request; and
- Upon approval/denial, the Waiver Order will be attached to each permit on the well pad at issue.

W. Va. Code 22-6A-12(c) - USACE

...Nothing contained in this section prevents an operator from conducting the activities permitted or authorized by a **Clean Water Act Section 404 permit** or “**other approval**” from the United States Army Corps of Engineers within any waters of the state or within the restricted areas referenced in this section.

USACE Review

- OOG will contact USACE to discuss any potential USACE permits or delineations that are in effect on the specific well pad location.
- A **Clean Water Act Section 404 permit** or “**other approval**” must be well location specific.



TYPE A RESTRICTION		Surface Owner Waiver	DEP Waiver	Variance
Existing Water Well		X		X
Developed Spring Used for Human or Domestic Animal Consumption		X		X
Occupied Dwelling Structure		X		X
Building 2,000 square feet or larger used to House or Shelter Cattle or Poultry Husbandry		X		X
TYPE B RESTRICTION		Surface Owner Waiver	DEP Waiver	Variance
Natural or Artificial Lake			X	
Pond or Reservoir			X	
Wetland			X	
Naturally Reproducing Trout Stream			X	
Surface Water Intake of a Public Water Supply			X	
Ground Water Intake of a Public Water Supply			X	



Questions

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