

§ 78.1. Definitions.

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BARREL—A UNIT OF VOLUME EQUAL TO 42 US LIQUID GALLONS.

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COMMON AREAS OF A SCHOOL’S PROPERTY – AN AREA ON ~~[AN EDUCATIONAL ENTITY’S]~~ A SCHOOL’S PROPERTY ACCESSIBLE TO THE GENERAL PUBLIC FOR RECREATIONAL PURPOSES. FOR THE PURPOSES OF THIS DEFINITION, A SCHOOL IS A FACILITY PROVIDING ELEMENTARY, SECONDARY OR POSTSECONDARY EDUCATIONAL SERVICES.

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[Gathering pipeline—A pipeline that transports oil, liquid hydrocarbons or natural gas from individual wells to an intrastate or interstate transmission pipeline.]

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PENNSYLVANIA NATURAL DIVERSITY INVENTORY—PNDI—THE PENNSYLVANIA NATURAL HERITAGE PROGRAM’S DATABASE CONTAINING DATA IDENTIFYING AND DESCRIBING THE COMMONWEALTH’S ECOLOGICAL INFORMATION, INCLUDING PLANT AND ANIMAL SPECIES CLASSIFIED AS THREATENED AND ENDANGERED AS WELL AS OTHER CRITICAL COMMUNITIES PROVIDED BY THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, THE PENNSYLVANIA FISH AND BOAT COMMISSION, THE PENNSYLVANIA GAME COMMISSION AND THE UNITED STATES FISH AND WILDLIFE SERVICE. THE DATABASE INFORMS THE ONLINE ENVIRONMENTAL REVIEW TOOL. THE DATABASE CONTAINS ONLY THOSE KNOWN OCCURRENCES OF THREATENED AND ENDANGERED SPECIES AND OTHER CRITICAL COMMUNITIES. THE DATABASE IS A COMPONENT OF THE PENNSYLVANIA CONSERVATION EXPLORER.

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PUBLIC RESOURCE AGENCY — AN ENTITY RESPONSIBLE FOR MANAGING A PUBLIC RESOURCE IDENTIFIED IN § 78.15(f)(1) (RELATING TO APPLICATION REQUIREMENTS) INCLUDING, PENNSYLVANIA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, PENNSYLVANIA FISH AND BOAT COMMISSION, PENNSYLVANIA GAME COMMISSION, UNITED STATES FISH AND WILDLIFE SERVICE, UNITED STATES NATIONAL PARK SERVICE, UNITED STATES ARMY CORPS OF ENGINEERS, UNITED STATES FOREST SERVICE, [WATER PURVEYORS,]

COUNTIES, MUNICIPALITIES, AND PLAYGROUND OWNERS ~~[AND SCHOOL DISTRICTS]~~.

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SECONDARY CONTAINMENT—A PHYSICAL BARRIER SPECIFICALLY DESIGNED TO ~~[PREVENT]~~ MINIMIZE RELEASES INTO THE ENVIRONMENT OF REGULATED SUBSTANCES FROM PRIMARY CONTAINMENT, TO MINIMIZE COMINGLING OF ~~INCOMPATIBLE~~ RELEASED REGULATED SUBSTANCES AND TO MINIMIZE THE AREA OF POTENTIAL CONTAMINATION, TO THE EXTENT PRACTICABLE.

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§ 78.15. Application requirements.

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(f) An applicant proposing to ~~CONSTRUCT A WELL SITE~~ [drill a well] at a location THAT MAY IMPACT A PUBLIC RESOURCE AS PROVIDED [listed] in paragraph (1) shall notify the applicable PUBLIC resource agency, if any, in accordance with paragraph (2). THE APPLICANT SHALL ALSO [and] provide the information in paragraph (3) to the Department in the well permit application.

(1) This subsection applies if the proposed [surface location] LIMIT OF DISTURBANCE of the well SITE is located:

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(~~VH~~vii) WITHIN AN AREA DESIGNATED AS **ZONES 1 OR 2 OF A WELLHEAD PROTECTION AREA AS PART OF AN APPROVED WELLHEAD PROTECTION PLAN A WELL HEAD PROTECTION PROGRAM APPROVED UNDER § 109.713 (RELATING TO WELLHEAD PROTECTION PROGRAM).**

§ 78.51. Protection of water supplies.

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(b) A landowner, water purveyor or affected person suffering pollution or diminution of a water supply as a result of [~~well site construction, well drilling, altering or operating~~ **OTHER**] [an oil or gas well] **OIL AND GAS OPERATIONS** [~~activities~~] may so notify the Department and request that an investigation be conducted. **Notices shall be made to the appropriate Department regional office or by calling the Department's Statewide toll free number at (800) 541-2050.** The notice and request must include the following:

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(c) Within 10 **calendar** days of the receipt of the investigation request, the Department will investigate the claim and will, within 45 **calendar** days of receipt of the request, make a determination. If the Department finds that pollution or diminution was caused by the [~~well site construction, drilling, alteration or operation activities~~ **OTHER**] **OIL AND GAS OPERATIONS** or if it presumes the well operator responsible for polluting the water supply of the landowner or water purveyor under section [208(c) of the act (58 P.S. § 601.208(c))] **3218(c) of the act (relating to protection of water supplies) AS A RESULT OF DRILLING OR ALTERATION OF THE OIL OR GAS WELL,** the Department will issue orders to the well operator necessary to assure compliance with this section. **The presumption established by section 3218(c) of the act is not applicable to pollution resulting from well site construction.**

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(2) **Quality.** The quality of a restored or replaced water supply will be deemed adequate if it meets the standards established under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1 – 721.17) **OR ACHIEVES IS COMPARABLE TO THE QUALITY OF WATER THAT EXISTED PRIOR TO POLLUTION IF THE WATER QUALITY WAS BETTER THAN THESE STANDARDS. IF, PRIOR TO POLLUTION, A WATER SUPPLY WAS OF A HIGHER QUALITY THAN REQUIRED UNDER PENNSYLVANIA SAFE DRINKING WATER ACT STANDARDS, THE RESTORED OR REPLACED WATER SUPPLY SHALL MEET THE PRE-POLLUTION QUALITY OF THE WATER** [~~, or is comparable to the quality of the water supply before it was affected by the operator if that water supply~~] [~~did not meet these~~] [~~exceeded those standards~~].

§ 78.56 [Pits and tanks for temporary containment] Temporary Storage.

(a) Except as provided in §§ 78.60(b) and 78.61(b) (relating to discharge requirements; and disposal of drill cuttings), the operator shall contain ~~[pollutional]~~ regulated substances ~~[and wastes]~~ USED AT OR GENERATED AT A WELL SITE IN A SINGLE PIT, TANK, OR SERIES OF TANKS OR OTHER STORAGE STRUCTURES APPROVED BY THE DEPARTMENT ~~[from the drilling, altering, completing, recompleting, servicing and plugging WELL(S) AT the well SITE WHERE THE SUBSTANCES OR WASTES ARE GENERATED OR WILL BE BENEFICIALLY REUSED. SUCH REGULATED SUBSTANCES AND WASTES, including brines, drill cuttings, drilling muds, oils, stimulation fluids, well treatment and servicing fluids, plugging and drilling fluids other than gases SHALL BE CONTAINED AT THE WELL SITE in a pit, tank or series of pits and tanks or other approved storage structures APPROVED BY THE DEPARTMENT].~~ A PIT WITH A FOOTPRINT AREA OF 3,000 SQUARE FEET OR GREATER, OR A TOTAL VOLUME OF 125,000 GALLONS OR GREATER, MAY NOT BE USED FOR TEMPORARY CONTAINMENT WITHOUT PRIOR APPROVAL FROM THE DEPARTMENT. The operator shall install or construct and maintain the pit, tank or series of ~~[pits and]~~ tanks or other approved storage structures in accordance with the following requirements:

NOTE: For ease of understanding, this final-form rulemaking language would read:

(a) Except as provided in §§ 78.60(b) and 78.61(b) (relating to discharge requirements; and disposal of drill cuttings), the operator shall contain regulated substances used at or generated at a well site in a single pit, tank, or series of tanks or other storage structures approved by the Department. A pit with a footprint area of 3,000 square feet or greater, or a total volume of 125,000 gallons or greater, may not be used for temporary containment without prior approval from the Department. The operator shall install or construct and maintain the pit, tank or series of tanks or other approved storage structures in accordance with the following requirements:

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~~[(ii)]~~ ~~[(10)]~~ (9) The pit shall be constructed so that the liner subbase is smooth, uniform and free from debris, rock and other material that may puncture, tear, cut or otherwise cause the liner to fail. The pit must be structurally sound and the interior slopes of the pit WITH A FOOTPRINT AREA OF 1,000 SQUARE FEET OR MORE must have a slope no steeper than 2 horizontal to 1 vertical.

The liner subbase and subgrade shall be capable of bearing the weight of the material above the liner without settling that may affect the integrity of the liner. If the pit bottom or sides consist of rock, shale or other materials that may cause the liner to fail, a subbase of at least 6 inches of soil, sand or smooth gravel, or sufficient amount of an equivalent material, shall be installed over the area as the subbase for the liner.

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(e) THE OWNER OR OPERATOR SHALL NOTIFY THE DEPARTMENT AT LEAST 3 BUSINESS DAYS BEFORE COMMENCING CONSTRUCTION OF A PIT WITH A FOOTPRINT GREATER THAN 250 SQUARE FEET TO BE USED DURING SERVICING, PLUGGING OR RECOMPLETING THE WELL. THIS NOTICE SHALL BE SUBMITTED

ELECTRONICALLY TO THE DEPARTMENT THROUGH ITS WEB SITE AND INCLUDE THE DATE CONSTRUCTION WILL COMMENCE. IF THE DATE OF CONSTRUCTION IS EXTENDED, THE OPERATOR SHALL RE-NOTIFY THE DEPARTMENT OF THE DATE OF CONSTRUCTION, WHICH DOES NOT NEED TO BE 3 BUSINESS DAYS IN ADVANCE. THE DEPARTMENT MAY WAIVE THE NOTIFICATION REQUIREMENTS IN THE EVENT OF AN EMERGENCY.

§ 78.57. Control, storage and disposal of production fluids.

(a) Unless a permit has been obtained under § 78.60(a) (relating to discharge requirements), the operator shall collect the brine and other fluids produced during operation[, service and plugging] of the well in a tank[, pit] or a series of [pits or] tanks, or other device approved by the Department for subsequent disposal or reuse. Open top structures may not be used to store brine and other fluids produced during operation of the well. AN OPERATOR USING A PIT FOR STORAGE OF PRODUCTION FLUIDS AT THE TIME OF THE EFFECTIVE DATE OF THESE REGULATIONS SHALL REPORT THE USE OF THE PIT TO THE DEPARTMENT NO LATER THAN *(Editor's Note: The blank refers to a date six months from the effective date of this regulation)* AND SHALL PROPERLY CLOSE THE PIT IN ACCORDANCE WITH APPROPRIATE RESTORATION STANDARDS NO LATER THAN *(Editor's Note: The blank refers to a date one year from the effective date of this regulation)*. ANY SPILLS OR LEAKS DETECTED SHALL BE REPORTED AND REMEDIATED IN ACCORDANCE WITH § 78.66 (RELATING TO REPORTING AND REMEDIATING SPILLS AND RELEASES) PRIOR TO PIT CLOSURE. Except as allowed in this subchapter or otherwise approved by the Department, the operator may not discharge the brine and other fluids on or into the ground or into the waters of this Commonwealth. UNLESS SEPARATELY PERMITTED UNDER THE SOLID WASTE MANAGEMENT ACT, NO REGULATED SUBSTANCES OR WASTES MAY BE STORED AT A WELL SITE UNLESS THE WASTES OR SUBSTANCES ARE GENERATED AT OR WILL BE BENEFICIALLY REUSED AT THAT WELL SITE.

§ 78.58. [Existing pits used for the control, storage and disposal of production fluids.] Onsite Processing

[For pits in existence on July 29, 1989, the operator may request approval for an alternate method of satisfying the requirements of § 78.57(c)(2)(iii) (relating to control, storage and disposal of production fluids), the angle of slope requirements of § 78.57(c)(2)(v) and the liner requirement of § 78.57(c)(2)(vi)—(viii) by affirmatively demonstrating to the Department’s satisfaction, by the use of monitoring wells or other methods approved by the Department, that the pit is impermeable and that the method will provide protection equivalent or superior to that provided by § 78.57. The operator shall request approval under § 78.57(c)(1).]

(a) The operator may request approval by the Department to process fluids [~~OR DRILL CUTTINGS~~] generated by the development, drilling, stimulation, alteration, operation or plugging of oil or gas wells OR MINE INFLUENCED WATER at the well site where the fluids [~~OR DRILL CUTTINGS~~] were generated or at the well site where all of the fluid is intended to be beneficially used to develop, drill or stimulate a well. The request shall be submitted on forms provided by the Department and demonstrate that the processing operation will not result in pollution of land or waters of the Commonwealth.

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[(c)] (e) The operator may request to process drill cuttings only at the well site where those drill[ing] cuttings were generated by submitting a request to the Department for approval. The request shall be submitted on forms provided by the Department and demonstrate that the processing operation will not result in pollution of land or waters of the Commonwealth.

§ 78.59b. WELL DEVELOPMENT [Freshwater] impoundments.

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[(f)] (g) WELL DEVELOPMENT [Freshwater] impoundments shall be restored by the operator [so] that the impoundment is registered to WITHIN 9 MONTHS OF COMPLETION OF [DRILLING] STIMULATION OF THE LAST WELL SERVICED BY THE IMPOUNDMENT. AN IMPOUNDMENT IS RESTORED UNDER THIS SUBSECTION by THE OPERATOR removing excess water and the synthetic liner, [and] returning the site to approximate original conditions, including preconstruction contours and [can support] SUPPORTING the land uses that existed prior to oil and gas [activities] OPERATIONS to the extent practicable [within 9 months of completion of drilling the last well serviced by the impoundment]. [A 2-year restoration extension may be requested under section 3216(g) of the act (relating to well site restoration).] AN EXTENSION OF THE RESTORATION REQUIREMENT MAY BE APPROVED UNDER § 78.65(dc) (RELATING TO SITE RESTORATION). If [written] REQUESTED BY [is obtained from] the landowner IN WRITING, ON FORMS PROVIDED BY THE DEPARTMENT, the requirement to return the site to approximate original contours may be waived by the Department if the liner is removed from the impoundment.

§ 78.65. Site restoration.

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(3) ~~[FAILURE TO]~~ WELLS NOT DRILLED – IF A WELL SITE IS CONSTRUCTED AND THE WELL IS NOT DRILLED, THE WELL SITE SHALL BE RESTORED WITHIN ~~[30 CALENDAR DAYS]~~ 9 MONTHS AFTER THE EXPIRATION OF THE WELL PERMIT UNLESS THE DEPARTMENT APPROVES AN EXTENSION FOR REASONS OF ADVERSE WEATHER OR LACK OF ESSENTIAL FUEL, EQUIPMENT OR LABOR.

§ 78.66. Reporting and remediating SPILLS AND releases.

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(v) If the site characterization indicates that the interim remedial actions taken did not adequately remediate the SPILL OR release, the operator or OTHER responsible party shall develop and submit a remedial action plan to the appropriate Department regional office for approval. The plan is due within 45 calendar days of submission of the site characterization to the Department. Remedial action plans should contain the elements outlined in § 245.311(a) (relating to remedial action plan), AND SHOULD CONTAIN A SCHEDULE FOR THE SUBMISSION OF REMEDIAL ACTION PROGRESS REPORTS.

~~(vi) A REMEDIAL ACTION PROGRESS REPORT SHALL BE SUBMITTED TO THE DEPARTMENT THREE MONTHS FOLLOWING THE DATE OF REMEDIAL ACTION PLAN IMPLEMENTATION.~~

~~[(vii)] (vi) [Once] WITHIN 45 DAYS AFTER the SELECTED REMEDIATION STANDARD HAS BEEN ATTAINED, [is FULLY implemented] the OPERATOR OR OTHER responsible party shall submit a final REMEDIAL ACTION COMPLETION report to the appropriate Department regional office for approval. [The Department will review the final report to ensure that the remediation has met all the requirements of [the background or Statewide health standard, or combination thereof, except the notice and review provisions. Relief from liability will not be available to the responsible party, property owner or person participating in the cleanup.] REMEDIAL ACTION COMPLETION REPORTS MUST CONTAIN THE ELEMENTS OUTLINED IN § 245.313(b) (RELATING TO REMEDIAL ACTION COMPLETION REPORT).~~

§ 78.73. General provision for well construction and operation.

Table 2

<p><u>True Vertical Depth to Top of [<i>Stimulated Formation</i>] STIMULATION PERFORATIONS OR NOTCHES (ft)</u></p>	<p><u>Maximum Vertical Separation Distance Between True Vertical Depth of Well Identified in Area of Review Survey and Top of [<i>Stimulated Formation</i>] STIMULATION PERFORATIONS OR NOTCHES (ft)</u></p>
<p><u>< 5,000</u></p>	<p><u>500</u></p>
<p><u>> 5,000</u></p>	<p><u>1,500</u></p>

§ 78.122. Well record and completion report.

(a) For each well that is drilled or altered, the operator shall keep a detailed drillers log at the well site available for inspection until drilling is completed. Within 30 calendar days of cessation of drilling or altering a well, the well operator shall submit a well record to the Department on a form provided by the Department that includes the following information:

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~~[(14) CERTIFICATION BY THE OPERATOR THAT THE MONITORING PLAN REQUIRED UNDER [SECTION] § 78.52a (RELATING TO AREA OF REVIEW) WAS CONDUCTED AS OUTLINED IN THE AREA OF REVIEW REPORT.]~~

(b) Within 30 calendar days after completion of the well, **when the well is capable of production**, the well operator shall [submit] **arrange for the submission of** a completion report to the Department on a form provided by the Department that includes the following information:

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(10) CERTIFICATION BY THE OPERATOR THAT THE MONITORING PLAN REQUIRED UNDER § 78.52a (RELATING TO AREA OF REVIEW) WAS CONDUCTED AS OUTLINED IN THE AREA OF REVIEW REPORT.