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**POLICY: Well-to-Underground-Storage-Tank (UST)-Setback-Waiver Policy for Public Water Systems**

**PURPOSE FOR NEW POLICY/PROCEDURE:** This policy is written to clarify Section 3 of the Maine *Rules Relating to Drinking Water* pertaining to waivers for well-to-underground-storage-tank (UST) setbacks of less than 1,000 feet. Waivers to the 1,000 foot setback requirement are considered in the interest of supporting the development of business in Maine, while maintaining high public health standards by providing safe water to the public.

**SCOPE:** This policy applies to “new wells”, as defined in this policy, including, but not limited to, proposed or existing, new wells, replacement wells, redundant wells, or additional wells.

**EXECUTIVE SUMMARY:**

<u>Setback from PWS Well to UST</u>	<u>Resolution</u>
1,000 feet or more (proposed well) 900 feet or more (existing well)	None Necessary. Monitoring may be required.
All proposed wells less than 1,000 feet	Must pursue land acquisition or easement.
300 to 1,000 feet (proposed well) 300 to 900 feet (existing well)	1. Hydrogeological Study or/and 2. Install and operate treatment & potentially a monitoring well. Ongoing monitoring required.
All wells with setback less than 300 feet (proposed or existing )	Install and operate treatment & potentially a monitoring well. Ongoing monitoring required.
Replacement Wells (see definition) w/in 1000'	May be issued a waiver. Risk must be reasonably minimized by location and design of replacement wells. Ongoing monitoring required.
Some well locations, proposed or existing, may be denied.	Find an acceptable well location using this policy.
None for a PWS in operation continuously from before the effective date of this policy, any setback for an existing or replacement well only.	Ongoing monitoring may be required.

Title: Well to Underground Storage Tank Setback Waiver Policy  
 SOP ID: To be assigned  
 Revision Number: A  
 Accepted By:

Maine Drinking Water Program  
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Prepared By: N. Saunders  
 Date: October 26, 2009  
 Date of Revision: 2-18-10  
 Date:

**ORIGINATOR:** Nathan Saunders, P.E.

**DEFINITIONS:**

[Also, see definitions from DEP Rules, Chapter 691]

**After the Fact (ATF) Public Water system:** A facility that meets the criteria of a public water system, not regulated by the Drinking Water Program, found to be already in operation.

**At Risk Population:** When the primary PWS population consists of children (less than 18 years of age), elderly, and immune-compromised individuals.

**Department:** Department of Health and Human Services

**DEP:** Maine Department of Environmental Protection

**DWP:** Maine Drinking Water Program

**Facility** (in this document) includes all facilities whether proposed, under construction, existing, currently a public water system, or in the process of being regulated as a public water system through the Department's new system approval process.

**Geologist:** In this document the term "geologist" refers to a Maine certified geologist.

**New Well** is defined as a well that has not yet been drilled or an existing well that has not been regulated as a public water source in the last three (3) years... new to the Maine Drinking Water Program (*this includes After the Fact wells*).

**Oil:** "Oil" means oil, oil additives, petroleum products and their by-products of any kind and in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with other nonhazardous waste, crude oils and all other liquid hydrocarbons regardless of specific gravity. For the purposes of this document, oil does not include propane or natural gas.

**Replacement Well:** a well that provides a new source of water to a population served by an existing, currently regulated PWS well (which no longer serves the PWS). A replacement well is **not** a redundant or an additional well and may be an existing well. In the case of a well whose volume capacity has diminished over time, an additional well that replaces the lost capacity will be considered a "replacement" well (replacing lost capacity) and the existing, reduced-capacity-well may continue to be used; the reduction in volume capacity must be proven and documented.

**PWS:** Public Water System

**Setback** (in this document) is the distance between a well and a UST or, after evaluating the processes involved with the use of the USTs, "setback" will be considered the distance between a well and the critical location where a spill is likely to occur. For example, UST fill pipes, where spills are likely to occur, can be many feet away from a UST, and will be considered in this waiver

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evaluation, noting that engineering controls can reduce the chance of spills at fill pipe locations, or vehicle filling locations, etc..

**UST** is an underground storage tank regulated by DEP Chapter 691, defined in that chapter as follows:

"Underground oil storage tank" also referred to as "tank," means any container, 10% or more of its volume being beneath the surface of the ground and which is used, or intended to be used, for the storage, use, treatment, collection, capture or supply of oil as defined in this subchapter, but does not include any tanks situated in an underground area if these tanks or containers are situated upon or above the surface of a floor and in such a manner that they may be readily inspected. For the purpose of this rule, "underground oil storage tank" does not include underground propane storage tanks, underground oil water separators, storm water and emergency catch basins, and hydraulic lift tanks. Overflow tanks associated with oil-water separators are still considered an underground oil storage tank.

**REGULATIONS:**

From the Maine *Rules Relating to Drinking Water* [10-144 CMR 231 (3)(G)(2)]:

"New wells shall be located ... at least 1,000 feet from Underground Storage Tanks regulated by the Department of Environmental Protection (DEP) Chapter 691, unless a waiver is obtained from the Department and DEP."

From the Department of Environmental Protection, See MRSA Title 38 Chapter 13D.

**POLICY FOR PUBLIC WATER SYSTEMS (PWS) WITH PROPOSED OR EXISTING WELLS, INCLUDING AFTER THE FACT PWS**

1. If a setback measures 1,000 feet or more, then a waiver is not required.
2. If circumstances exist where a well (proposed or existing) is closer than 1,000 feet from a UST, then the Department may grant a setback waiver on a case-by-case basis.
3. A PWS found to be in operation continuously from before the effective date of this policy, 10/26/2009, will be granted a setback waiver for an existing well only. Ongoing monitoring may be required.
4. For an existing well, the 1,000-foot-setback requirement may be reduced by 10%; an existing well with setback between 900 and 1,000 feet does not require a waiver).
5. A PWS with a proposed well with setback of less than 1000 feet must pursue, to the satisfaction of the DWP, the acquisition of land or easement to land for the purpose of drilling a well with a setback of 1000 feet, or for maximizing setback if setback must be less than 1000 feet. A written correspondence from the PWS describing efforts to obtain land or an easement may be required by the DWP.

6. In all cases, setback waiver evaluations shall include an assessment of the well location(s) on each site that provide the most protection and minimal risk from UST contamination. Certain locations, including those for existing wells, may be denied. The New System or Well Approval Process for all Public Water Supplies requires that the location of a PWS well be approved by the DWP. For wells with reduced setbacks from USTs, the DWP reviews well site location working in conjunction with the DEP (see additional detail below).
7. A “replacement” well, as defined above, may be issued a setback waiver without requiring a hydrogeologic study or the installation of VOC related treatment (unless test results show that treatment is required).

For A well drilled to replace a contaminated well (due to oil or other contaminant), additional testing and/or a hydrogeological assessment may be required.

A well that makes up (replaces) the lost volume capacity of a well with diminished output can only be considered a “replacement” well if the diminished output of the well is proven and documented. A well that cannot meet an increased demand does not qualify as a well with diminished output. Therefore, if the growth of a PWS increases the demand on an existing well and the well cannot meet the increased demand, then an “additional” well is required and it cannot be considered a “replacement” well. Replacement wells may be installed with the following conditions:

- The location and design of the well must reasonably minimize contamination risks
  - Ongoing monitoring may be required
8. A public water system with a proposed well that has a setback of 300 up to 1000 feet, or an existing well with a setback of 300 up to 900 feet, may hire a geologist to evaluate the geology and hydrogeology of the site and render an opinion concerning the risk of contamination to the well in the event of an oil discharge at the UST facility. A DWP geologist, working in conjunction with the DEP, may grant a waiver to a public water system for a proposed well with a setback of 300 up to 1000 feet. This waiver would be granted, based upon review of the report provided by a geologist and a determination that the information contained in the report demonstrates to the satisfaction of the DWP/DEP that minimal risk of contamination exists. Setback waiver approval conditions may be required by the DWP, including, but not limited to, well modification (e.g. installation of a Jazwell seals at appropriate locations) or the installation of treatment. Well construction requirements or other engineered solutions may be required as enhancements to the geologist’s report.
  9. A PWS with setback of 300 up to 1000 feet for a proposed well, or 300 up to 900 feet for an existing well may obtain a waiver as a result of installing and operating treatment for the removal of volatile organic compounds, in lieu of obtaining a hydrogeologic evaluation, with the following conditions:
    - Ongoing regular testing of raw water (frequency to be determined by the DWP)

- Possible additional finished water testing, if contamination is discovered in raw water testing.
  - Installation of a monitoring well at an appropriate location with on going monitoring may be required.
10. A PWS with a setback of less than 300 feet, is required to install and operate treatment for the removal of volatile organic compounds, with the following conditions:
- Ongoing regular testing of raw water (frequency to be determined by the DWP)
  - Possible additional finished water testing, if contamination is discovered in raw water testing;
  - Installation of a monitoring well at an appropriate location with ongoing monitoring may be required.
11. Upon receiving a request for a waiver to the 1,000-foot-UST-setback rule, the DWP will contact the Maine Department of Environmental Protection, Bureau of Remediation and Waste Management, and provide hydrogeological information relating to the waiver, provided by the system, a geologist, or generated by the DWP.
12. The DEP will, at the conclusion of its review, write an opinion and provide it to the DWP for each well-to-UST-waiver request.
13. Waivers are granted or denied by the DWP, working in conjunction with the DEP.
14. For public water systems that have wells with a setback of less than 1,000 feet, the DWP may require that specific well construction standards be met, routine and ongoing monitoring for specific contaminants be completed, and/or treatment installation.
15. Ongoing monitoring requirements will be de determined on a case-by-case basis.
16. When a hydrogeological evaluation is involved, the DWP Geologist needs to sign as the DWP Authorizing Signature.
17. Maintenance records of any treatment installed as a result of this policy will be reviewed during the normal sanitary survey process or as needed to ensure safe drinking water.

**Maine Drinking Water Program Well to UST Setback Waiver Form**

System Name: \_\_\_\_\_ Date: \_\_\_\_\_

System Contact Name: \_\_\_\_\_

PWSID# (If applicable): \_\_\_\_\_

DWP Field Inspector: \_\_\_\_\_

DWP Waiver Reviewer:(DWP Geologist): \_\_\_\_\_

DEP Waiver Reviewer \* : \_\_\_\_\_

Check the boxes that apply (more than one may be applicable):

- Proposed Well                       Existing Well                       Replacement Well  
 PWS in continuous operation prior to the original effective date of this policy, 10/26/09.

1. What is the measured setback the waiver is requested for? (Attach drawings and describe)

\_\_\_\_\_

2. What circumstances warrant a setback reduction waiver:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Was a hydrogeologic study completed by a Maine certified geologist?

- Yes (attach report)  
 No If No, why was the study not completed? (e.g. well construction requirements specified, VOC treatment installed, other?)

\_\_\_\_\_

\_\_\_\_\_

4. Waiver granted?     Yes                       No                      Explain reasoning:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Record waiver conditions (e.g. extended well casing or Jazwell seal, monitoring requirements, treatment required, other):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

DWP Authorizing Signature: \_\_\_\_\_

\*Attach DEP written opinion to this form.

Retain this form in the PWS file

## Associated Documents

New System or Well Approval Procedure

Well to Contamination Source Setback Waiver Policy for Public Water Systems

Maine Department of Environmental Protection Rules Chapter 691 and MRSA Title 38 Chapter 13D.

## Superseded Documents

None

## Retention

This document is retained per the DWP Record Retention Procedure

## Revision Log

Section	Page	Rev.	Date	Description Of Change	Approved by:
		Original	10/26/09		Roger Crouse
Several	Several	A	2/18/10	Add Scope, definitions, policy on replacement wells.	Roger Crouse