

Subject:	Setback Issues found during a survey	Date:	6/1/15
Unit:	Technical Services – ks, cg, tp, jm	Revised:	7/13/16; 2/13/18 mb 4/2/20 na
<p>Purpose & Scope:</p> <p>To provide guidance in determining what to do when a setback issue is identified during a water system survey. This procedure specifically addresses well and springs (setbacks do not apply to surface water). The procedure covers when to apply for a waiver, and the steps necessary to communicate the information to the system and DMCE. A flowchart is available that applies to each section of the procedure.</p>			

Procedure/Process:

1. A setback issue is identified during a water system survey.
 - a. Oregon Administrative Rules that cover [water system surveys](#) and [construction standards](#) require that groundwater sources meet setbacks from hazards. For any well or spring, there cannot be a potential hazard within a 100 foot radius. The only exceptions are a gravity sewer line or septic tank may not be within 50 feet.
 - b. Note that roads and rail roads are considered during the plan review process and are not listed as a hazard in OAR 333-061-0050(2)(a)(E).
 - c. Also note that the significant deficiency is specifically for a hazard within the setback, not just lacking the 100 foot radius of control.

2. Check to see if a waiver was previously issued for setbacks around this well. This can be found in plan review correspondence, or in the system file or waiver database (waivers beginning 2014), and hopefully one day on Data On-line.

3. If a waiver has not been granted, then the surveyor marks down the deficiency on the survey form and cover letter (see template language at end of procedure). The water system should be encouraged to move the hazard.

4. If the hazard is moved, then the deficiency has been corrected. This is documented and tracked through the normal process (see Deficiency Tracking procedure).

5. Where the rule cannot be met, the water system can apply for a construction standard waiver. During this process, the well or spring construction will be evaluated by a DWS hydrogeologist.
 - a. State or partner agency staff should let the water system know that a construction standard waiver form is available [online](#) to fill out. Staff should note that there are [three criteria](#) referenced in the rule that must be addressed in the application.
 - b. This process will include an evaluation of the source by a DWS hydrogeologist. State or partner staff should fill out a [source evaluation form](#). Both documents are to be submitted to the regional Technical Services staff person, who reviews them to make sure they are appropriate and clear.
 - c. State staff person enters information into the waiver tracking database, located in I:\DWS\Technical Services Unit\Plan Review\Tracking\waiver requests, then forwards the well evaluation form to the Geologist.
 - d. The DWS hydrogeologist will make a determination on whether or not the source is adequately constructed, in a confined aquifer, or equivalent with low/moderate susceptibility. S/he sends the completed well evaluation to the state regional person. If the hazard is an unused or abandoned well within the 100-foot setback of a public water source

and the hydrogeologist determines this well to be adequately constructed, it is no longer considered a hazard and a setback waiver is not needed. The water system should be informed of the outcome.

- e. The State Regional person provides the waiver request and GW source evaluation to their manager. Let's evaluate over time if it makes sense to continue to route things through the state technical person if it's a partner system.

6. The Technical Services managers review the documents.

- a. If the source is properly constructed in a confined aquifer, the manager can approve the construction standard waiver.
- b. If the source is not properly constructed or is in a semi or unconfined aquifer but the geologists determine there is low susceptibility/sensitivity, the waiver may also be approved.
- c. Otherwise, the waiver is denied due to lack of acceptable alternate measure to protect public health.
- d. The Geologists may make a specific recommendation on whether they feel a waiver is appropriate on a case-by-case basis.
- e. The manager enters the approval information about the waiver into the Waiver database.
- f. The manager communicates with the State Tech person, who communicates with the Regulating agency person.

7. Communications and resolution:

- a. If a waiver is approved, the regulating agency should provide a copy of the waiver to the system. The significant deficiency is considered corrected on the date of the waiver approval and can be documented and tracked as normal.
- b. If a waiver is not granted, the system is notified (appropriate format to be determined by regulating agency) that they need to correct the deficiency in another way. The unresolved deficiency is displayed online but will not receive a violation or be considered for formal enforcement unless a water quality problem exists.

8. During future surveys, if the setback hazard still exists and a waiver was not approved, then the surveyor must mark it as a deficiency. If there are any changes in risk (more cattle, deterioration of chemical storage tanks, etc.), the situation should be re-evaluated. In the letter to the system, the surveyor must note that the deficiency was previously noted and is considered unresolved. As long as the setback hazard exists, the water system is not eligible for an "outstanding performer" designation.

9. A note about the rationale for this procedure. Oregon made the decision that a groundwater source not meeting the setbacks to a contaminant is a significant deficiency that represents a health risk and therefore needs to be corrected. However, we realize that some of these situations are unresolvable without large capital expenditures that are not realistic. Rather than just approve these situations, we are noting them, reminding them of the non-compliance and public health risk with each survey. In some cases we may require additional monitoring. Additional monitoring alone is not an adequate alternate measure to protect public health as it is reactive rather than proactive, and in many cases may not actually provide additional public health protection (e.g., VOCs near the well of a transient system, or coliform monitoring at a well that isn't chlorinated and are already sampling monthly). We also want to be consistent with the plan review process regarding setback issues and not approve something in conflict with construction standards or is a significant deficiency that could be a risk.

Sample language for surveys:

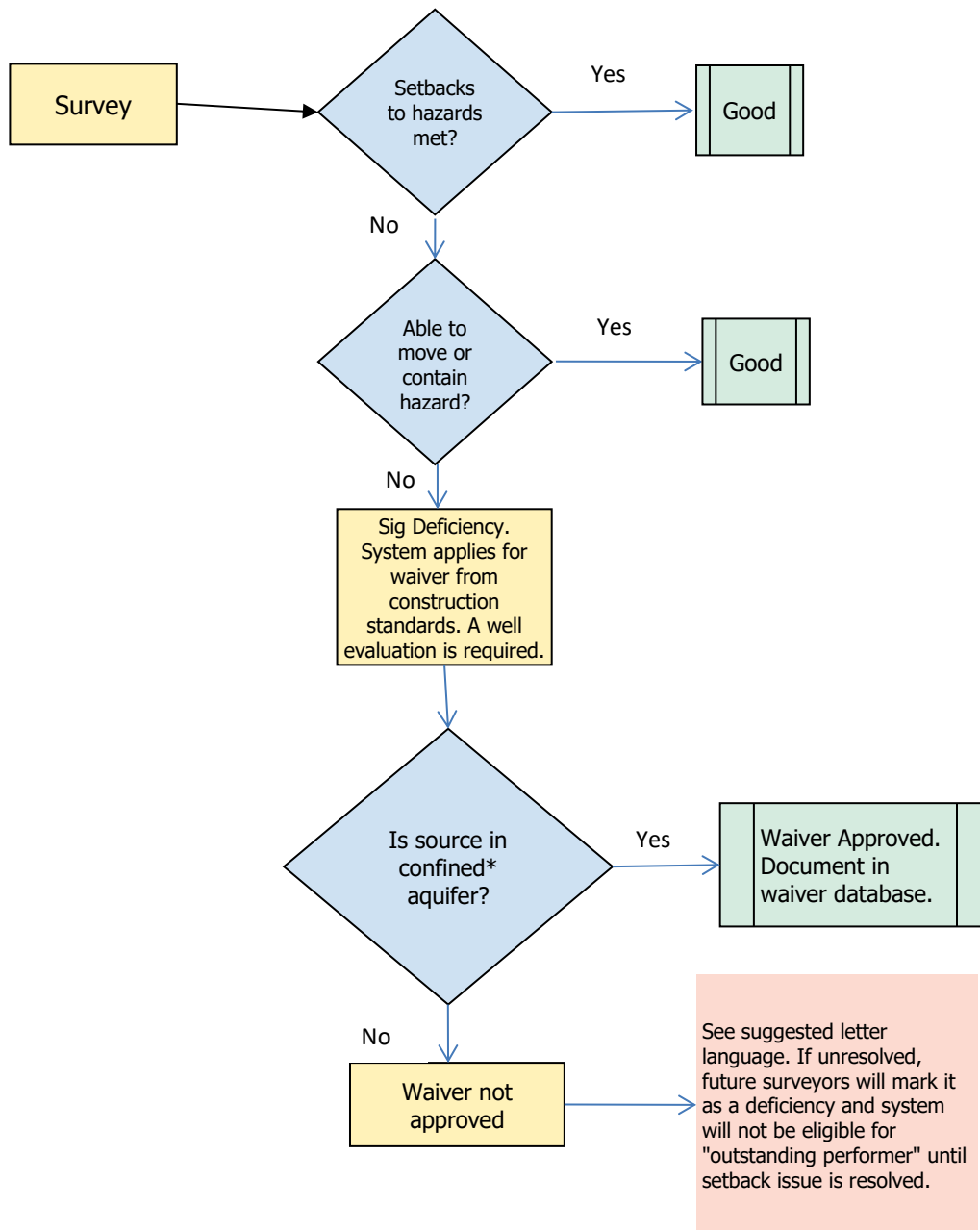
The significant deficiencies and rule violations noted are as follows:

1. **Wells do not meet setbacks from hazards.** Oregon Administrative Rules that cover water system surveys and construction standards require that groundwater sources meet setbacks from hazards. [Potential hazards] exist within the required 100 foot setback radius of well [x].

Potential contaminant sources that can be moved must be kept out of the 100 foot setback area at all times (e.g., animals no longer allowed to pasture around well or fencing around well provided; paint cans removed from well house). Removal of the hazard is considered correction of the significant deficiency.

For potential contaminant sources that cannot be easily moved, the water system can apply for a waiver of the construction standards. A construction standard waiver form is attached (also available [online](#)). In order for a waiver to be approved, an evaluation of the source by a Drinking Water Services (DWS) hydrogeologist must determine that the source is adequately constructed and in a confined aquifer or equivalent with low/moderate susceptibility.

Procedure for Setback Issues for Groundwater Sources identified during a water system survey



* Source is adequately constructed in a confined aquifer or equivalent with low/moderate susceptibility per Regional Hydrogeologist.