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U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

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OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 92-18

TO: ALL APPROVED MORTGAGEES

SUBJECT: Single Family Loan Production - Acceptance of
Individual Residential Water Purification Equipment

Effective immediately, the Department will accept individual water purification units on all single family properties including both proposed and existing construction. This Mortgagee Letter sets forth the requirements for HUD acceptance of these individual water purification units. This Mortgagee Letter supersedes Mortgagee Letter 91-4, dated January 25, 1991.

All requirements in this letter must be followed, without exception, or FHA mortgage insurance will not be available, because of health and safety considerations. The lender must ensure that all of the information required below is in the HUD Case Binder prior to insurance endorsement. The acceptance of water purification units is conditioned on the homebuyer(s) understanding the serious health and safety hazards involved if the equipment does not perform properly. The homebuyer(s) must be aware of their responsibilities for maintaining a water purification unit and the consequences if the water purification unit is not maintained properly.

On all proposed construction cases, Section 518(a) of the National Housing Act does not apply to the water purification unit. The Department does not warrant the condition of the water purification unit and will not provide any money to the homebuyer(s) for repairs. The Department relies upon the local (or State) health authority to assure that the water supply, when processed by a properly maintained water purification unit, is acceptable for human use and consumption.

The following requirements must be complied with prior to the water purification unit being accepted by HUD. The lender must provide appropriate documentation that addresses each of these requirements.

A. EQUIPMENT. The water purification unit(s) must be approved by the National Sanitation Foundation.

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B. CERTIFICATION BY LOCAL (or STATE) HEALTH AUTHORITY. A local (or State) health authority certification must be submitted to HUD which certifies the following:

1. That a "point-of-use" or "point-of-entry" water purification unit is operating on the property.

If "point-of-use" equipment is used, a water purification unit must be employed on each water supply source (inside and outside faucet) serving the property. (If a "point-of entry" system is used, a

separate water supply system carrying untreated water for flushing toilets may be used);

2. That the water purification unit is sufficient to assure an uninterrupted supply of safe and potable water, adequate to meet household needs;
3. That the water supply, when treated by the water purification unit, meets the water quality standards of the local (or State) health authority.

If there are no local (or State) water quality standards, then water quality must meet the standards set by the Environmental Protection Agency (EPA), as prescribed in the National Primary Drinking Water requirements in 40 CFR Parts 141 and 142; and

4. That there exists a Plan that provides for the monitoring, servicing, maintenance, and replacement of the water purification equipment, and which meets the requirements listed in paragraph G below.

- C. MORTGAGOR NOTICE. The homebuyer(s) must be notified in writing, prior to the sales contract being signed, that the property has a hazardous water supply that requires treatment for the water to be safe and acceptable for human consumption. The specific contaminant(s) and the related health hazard(s) must be disclosed. Also, a good faith estimate of the maintenance and replacement costs of the water purification equipment must be provided in writing with this notice.

A copy of the notice (including cost estimates), dated prior to the date of the sales contract, and signed by the homebuyer(s) must accompany the submission for insurance endorsement. If the sales contract is signed prior to the disclosure being provided to and signed by the homebuyer(s), another sales contract must be executed after the information is provided to the homebuyer(s) and he/she has acknowledged receipt of the notice.

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- D. MORTGAGOR CERTIFICATION. The homebuyer(s) must sign the attached certification included in this letter at the time he/she signs the loan application. This certification must also be submitted to HUD with the request for insurance endorsement.
- E. SERVICE CONTRACT. Before closing the mortgage loan, the homebuyer(s) must enter into a service contract with an organization or individual specifically approved by the local (or State) health authority to carry out the provisions of the required Plan for servicing, maintenance, repair and replacement of the water purification equipment. A signed copy must be submitted to HUD with the request for insurance endorsement.
- F. ESCROW FOR MAINTENANCE AND REPLACEMENT. The lender must establish and maintain an escrow account which provides for the accumulation of funds paid with the monthly mortgage payment adequate to assure proper maintenance and replacement of the water purification equipment. The amount of funds to be collected by the lender will be based upon

information provided by the manufacturer for the maintenance and replacement of the water purification equipment and for other charges anticipated by the service contractor.

The lender's estimate of escrow requirements is based on the best information available as to probable payments required to be made from the escrow account in the coming year. Reflected in the estimate must be an adequate reserve to meet longer term costs associated with replacement or extensive repair(s), as needed, to ensure the water purification unit is performing properly.

The initial monthly escrow amount must be stated in the Plan (see paragraph G). Disbursements from the account are limited strictly to costs associated with the normal servicing, maintenance, repair or replacement of the water purification equipment. Disbursements may only be made to the service contractor (or its successor), to equipment suppliers, to the local (or State) health authority for the performance of testing or other required services, or to another entity approved by the local (or State) health authority. So long as water purification is necessary and the mortgage is insured by HUD, the mortgagee must maintain the escrow account.

Provision for the escrow should be made in the security instrument by incorporating the "Water Purification Equipment Rider" in HUD Handbook 4165.1 REV-1, Appendix XV, dated April 22, 1992.

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- G. APPROVED PLAN. A Plan, in the form of a contract entered into by the mortgagor and mortgagee, and approved by the local (or State) health authority, must set out conditions that must be met by the parties as a condition to insurance of the mortgage by HUD. A signed copy must be submitted to HUD with the request for insurance endorsement. To be approved by the local (or State) health authority, the following requirements must be met:
1. The Plan must set forth the respective responsibilities to be assumed by the mortgagor and the mortgagee, as well as the other entities who will implement the Plan, (i.e., the local health authority, the maintenance organization, etc.) In particular:
 - a. The Plan must state the responsibilities of the local (or State) health authority for monitoring and enforcing the performance of the service contractor, including any successor that the local (or State) health authority may be compelled to name. By its approval of the Plan, the local (or State) health authority documents its acceptance of these responsibilities and the Plan should so indicate;
 - b. The Plan must provide for the monitoring of the operation of the water purification equipment, as well as for servicing (including disinfecting), and for repairing and replacing the system, as often as needed, taking into consideration the systems design, anticipated use, and the type and level of contaminants present. Installation,

servicing, repair and replacement of the water purification unit must be performed by an individual or organization approved by the local (or State) health authority and identified in the Plan. The Plan may incorporate by reference specific terms and conditions of the service contract required under paragraph E above;

- c. Under the Plan, responsibility for monitoring the performance of the service contractor and for assuring that the water purification unit is properly serviced, repaired, and replaced rests with the local (or State) health authority that has given its approval to the Plan. The Plan must confer on the local (or State) health authority all power necessary to effect compliance by the service contractor.

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The Plan must provide that, upon any notification of noncompliance received from the local (or State) health authority, the mortgagor(s) must have the right to discharge the service contractor for cause and to appoint a successor organization or individual as service contractor; and

- d. The Plan must provide for the mortgagor(s) to make monthly escrow payments necessary for the servicing, maintenance, repair and replacement of the water purification unit, and for the mortgagee to disburse funds from the escrow account as required, to the appropriate party or parties.
2. The Plan must provide that in the event the dwelling is refinanced, sold or otherwise transferred with a HUD/FHA insured mortgage, the Plan will:
 - a. Continue in full force and effect;
 - b. Impose an obligation on the mortgagor(s) to notify the purchaser(s) or transferee(s) of the necessity for the water purification unit and for its proper maintenance, as well as the costs for maintaining the system and the obligation to make escrow payments; and
 - c. Require the mortgagor(s) to furnish the purchaser(s) with a copy of the Plan, before any sales contract is signed.
 3. The Plan must provide that a water quality analysis be obtained by the local (or State) health authority no less than once a year, but more frequently if deemed necessary by the local (or State) health authority or by the service contractor.

If you have any questions, please contact the HUD Field Office in your jurisdiction.

Very sincerely yours,

Arthur J. Hill
Assistant Secretary for

Housing-Federal Housing Commissioner

Attachment

MORTGAGOR'S CERTIFICATE

I hereby acknowledge and understand that the home I am purchasing has a water purification system which I am responsible for maintaining. I understand that the individual water supply is unsafe for human consumption unless the system is operating properly. I am aware that if I do not properly maintain the water purification unit, the water supply will not be purified or treated properly, thereby rendering the water supply unsafe for human consumption.

I also understand that the Department of Housing and Urban Development does not warrant the condition of the water purification system, is not authorized to give me any money for repairs to the water purification system, and has relied upon the local (or state) health authority to assure that the water supply, when processed by properly maintained water purification equipment, is acceptable for human use and consumption.

Mortgagor's Signature and date

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