

*Directly From HUD - 6/7/2014*

## **PROCEDURES FOR WELL WAIVERS**

### **NEW CONSTRUCTION**

HUD Handbook 4910.1 allows for a lesser distance from the well to a soil-poisoned area (from 25 to 15 feet), or septic drainfield (from 100 to 50 feet) if the well penetrates impervious strata of clay, hardpan or rock.

The DE Underwriter may accept these lesser distances for new construction with the proper documentation provided the reduced distances are acceptable to state and local authorities. If so, evidence that the ground surface is effectively separated by an impervious strata may be supported by a well-driller's log or acceptable substitute. Additionally, a survey or a professional drawing is required to be placed in the case binder.

The HOC will not accept any request for waivers on new construction. New construction is defined as any property which is proposed, under construction or existing less than one year.

### **EXISTING CONSTRUCTION**

For existing construction over one-year old, a request for a waiver of the minimum distance requirements from the well to a potential source of pollution may be considered if it is less than that allowed by HUD Handbook 4905.1 or Mortgagee Letter 2002-25.

The Handbook and Mortgagee Letter allows for a lesser distance from the well to the following sources of pollution if there is an impervious strata of clay, hardpan or rock and it is acceptable to state and local authorities.

- septic drainfield (100 to 75 feet)
- property line (10 feet to 0 feet) provided that the well is not within 10 feet of any roadway or the property line of other than a single-family residential property

The DE Underwriter may accept these lesser distances with the proper supporting documentation (evidence that the ground surface is effectively separated by an impervious strata, a professional drawing, and a 'clear' water test) and provided the reduced distances are acceptable to state and local authorities. In these instances a request for waiver is not required.

The HOC will accept for review, on a case-by-case basis, waiver requests on existing construction, if the distances are acceptable to state and local authorities and in which the distance from the well to the:

- septic tank is less than 50 feet; or
- septic drainfield is less than 75 feet.

If the DE underwriter determines that there is adequate justification to request a waiver of the minimum distance(s), he/she must forward a written request to the HOC with the appropriate exhibits enclosed.

## Procedures

- **Waivers are only granted on existing construction. The HOC will not accept any request for waivers on new construction. New construction is defined as any property which is proposed, under construction or existing less than one year.**
- **The following is required to be included in a request for waiver:**
  - **Appraisal. The appraisal should indicate that the property has a well and/or septic and that public utilities are not available.**  
**Note: If public utilities are available, the lender must determine if connection is feasible. If not, include the reasons with the request for waiver.**
  - **Survey or professional drawing with all notations. The survey or professional drawing must indicate the distance from the subject well to the septic tank, property line, septic drainfield and chemically poisoned soil on the subject site as well as all adjacent, adjoining and contiguous sites. If there are no improvements on the neighboring lots, the notation of "vacant" on the drawing is adequate.**
  - **If the well is located in an utility easement, a letter from the utility company acknowledging the well will not hinder their normal operations.**
  - **Evidence that the ground surface is effectively separated by an impervious strata. This may be supported by a well driller's log or acceptable substitute. Acceptable substitutes are a subsurface evaluation letter from either the local Water Management District or Health Department or a letter from a qualified well installer provided it clearly shows data which would otherwise have been revealed by the well driller's log. The underwriter must insure the well driller's log (or acceptable substitute) denotes an apparent impervious strata. **If this information is not available, the property is NOT eligible for HUD/FHA mortgage insurance.****
- **Well water test in accordance with the latest local and state drinking water regulations for private wells. This includes all microbiological and chemical test parameters in the regulation. If there are no local or adequate state requirements then the maximum contaminant levels established by the Environmental Protection Agency (EPA) will apply.**
  - **Evidence from the county health department of acceptance of the well in relation to the soil poisoned area, septic tank and septic drainfield.**
  - **Termite report (well to soil-poisoned area)**

**References:**

- HUD Handbook 4150.2, page 3-10
- HUD Handbook 4910.1, Chg. 1, Appendix K, page K-22
- HUD Handbook 4905.1, page 2-2
- 24 CFR 200.926d (f)(3)
- Mortgagee Letter 2005-48
- Mortgagee Letter 2002-25

## Utilities – Well and Septic

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001

**Is the appraiser still required to report well, septic and property line distances on an addendum to the URAR or is this only required when problems are noted? How is the lender to determine if these distance requirements are met if the appraiser is not required to identify?**

The appraiser is not required to sketch the distances between the well and septic, however, he or she should be mindful of FHA's minimum distance requirements between private wells and sources of pollution (septic systems) in the performance of FHA appraisals; and, if discernible, comment on them. Prudent appraisal practice would have the appraiser requesting a copy of a survey from the homeowner, if available.

If the appraisal notes a distance issue, it could be potential for contamination. If the appraisal notes any adverse site conditions, that may warrant further inspections or due diligence. In either case, it is the lender's decision as to whether a qualified third party should map the distances and/or require testing for compliance with local or state requirements, or, in their absence, FHA requirements. Appraisers are expected to have geographic competency, which would include familiarity with local or customary inspection requirements. Local or customary requirements should be noted within the appropriate area of the appraisal report. However, the decision to require a test, certification or inspection, other than what is automatically required as noted in ML 2005-48, is made by the lender and FHA requires the lender to be familiar with the market areas in which they lend.

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**Is it mandatory for a well/septic report to show distance to lot lines?**

There is no standardized well/septic report and its contents would typically be determined by what is requested. If a lender determines that there is a need to confirm distances between well and septic systems, or lot lines, then the lender would specifically request that a qualified third party measure such distances.

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## Utilities – Well and Septic, Continued

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**If a water test is required, what tests are included? FHA required tests (pre-2006) for five contaminants. If local/state does not require testing of the five contaminants, can we just do what the state/local authorities require?**

For existing properties, FHA will defer to the testing requirements of the local jurisdiction and will not add additional contaminant level testing to that required by the local jurisdiction.

If the local authority does not have any requirements, the maximum contaminant levels established by the Environmental Protection Agency (EPA) apply.

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**Are dug wells acceptable? Are there any changes with the new guidelines?**

Properties served by dug wells are unacceptable unless a complete survey conducted by an engineer is delivered to the lender. To be considered acceptable, the engineer's survey must include these items:

- i. A health report with no qualifications
  - ii. A pump test indicating a flow of at least 3-5 gallons per minute supply for an existing well, and 5 gallons per minute for a new well
  - iii. No indication of exposure to environmental contamination, mechanical chlorination or anything else that adversely affects health and safety.
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005

**Is a well located in the basement okay? If not allowed by FHA, what if local laws permit it?**

An existing property, which is serviced by a well located within the foundations walls of the dwelling, is acceptable as security for FHA-insured financing only when the local jurisdiction recognizes and permits such a location. A well located within the foundation walls of new construction is not acceptable except in arctic or sub-arctic regions.

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## Utilities – Well and Septic, Continued

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**006 Will the Underwriter require a septic inspection when the property is vacant?**

Septic testing is to be governed by state or local requirements; however, the appraiser must note any readily observable deficiencies regarding the septic system and its surrounding area.

If there are obvious or readily observable signs of system failure, the appraiser is to “require inspection” to ensure that the system is in proper working order. In those instances where a subject property is vacant FHA defers to the underwriter to employ prudent underwriting in requiring any tests or certifications based on reported property conditions including property vacancy.

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**007 Does FHA have a list of the state and local governments that may require well and septic tests?**

FHA does not maintain a list of states or local jurisdictions that require well and/or septic testing. The decision to require a test, certification or inspection, other than what is automatically required as noted in ML 2005-48, is made by the lender.

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**008 If hook-up to public water is available, must the homeowner do it?**

The appraiser is required to report on the availability of connection to public and/or community water/sewer systems. The lender is responsible for the determination of the feasibility for requiring connection.

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**009 How would shared well agreements be treated?**

Wells shared by up to four properties are acceptable provided that there is an acceptable legal agreement between the property owners, the quality of the water is found acceptable, there is sufficient capacity, and it is in accordance with local well codes. A shared well must have a shared well agreement and shall be binding upon signatory parties and their successors in title.

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