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health authority documents its acceptance of these responsibilities, and the Plan should so indicate;

(ii) 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 frequently as necessary, taking into consideration the system's design, anticipated use, and the type and level of contaminants present. Installation, servicing, repair and replacement of the water purification system must be performed by an individual or organization approved for the purpose by the local (or state) health authority and identified in the Plan. In meeting the requirements of paragraph (f)(1)(ii) of this section, the Plan may incorporate by reference specific terms and conditions of the service contract required under paragraph (d) of this section.

(iii) Under the Plan, responsibility for monitoring the performance of the service contractor and for assuring that the water purification system 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 health authority all powers necessary to effect compliance by the service contractor. The health authority's powers shall include the authority to notify the mortgagor of any noncompliance by the service contractor. The plan must provide that, upon any notification of noncompliance received from the health authority, the mortgagor shall have the right to discharge the service contractor for cause and to appoint a successor organization or individual as service contractor; and

(iv) The Plan must provide for the mortgagor to make periodic escrow payments necessary for the servicing, maintenance, repair and replacement of the water purification system, 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 if the dwelling served by the water purification system is refinanced, or is sold or otherwise transferred with a HUD-insured mortgage, the Plan will:

(i) Continue in full force and effect;

(ii) Impose an obligation on the mortgagor to notify any subsequent purchaser or transferee of the necessity for the water purification system and for its proper maintenance, and of the obligation to make escrow payments; and

(iii) Require the mortgagor to furnish the purchaser with a copy of the Plan, before any sales contract is signed.

(g) *Periodic analysis.* Any Plan developed in accordance with this section must provide that an analysis of the water supply shall be obtained from the local (or state) health authority no less frequently than annually, but more frequently, if determined at any time to be necessary by the health authority or by the service contractor.

(Approved by the Office of Management and Budget under control number 2502–0474)

[57 FR 9609, Mar. 19, 1992; 57 FR 27927, June 23, 1992]

INSURED TEN-YEAR PROTECTION PLANS (PLAN)

SOURCE: Sections 203.200 through 203.209 appear at 55 FR 41021, Oct. 5, 1990, unless otherwise noted.

§ 203.200 Definitions.

As used in § 203.201 through § 203.209, the following terms shall have the meaning indicated:

Coverage contract means a warranty certificate, insurance policy, or other document of similar purpose (including any endorsements), delivered to the homeowner at the time of closing or settlement which is issued by a State, a builder, a warranty company, or an insurance company and which defines the terms and conditions under which a Plan will provide warranty coverage of the covered property.

Construction deficiencies are defects (not of a structural nature) in a dwelling covered by an insured ten-year protection plan that are attributable to poor workmanship or to the use of inferior materials which result in the impaired functioning of the dwelling or some part thereof. Defects resulting from homeowner abuse or from normal wear and tear are not considered construction deficiencies.

Insurance backing (or *insurance backer*) means the direct insurance or reinsurance of potential Plan obligations by one or more insurance companies.

Insured ten-year protection plan or *Plan* means an agreement between a homeowner and a Plan issuer which, among other things, contains warranties regarding the construction and structural integrity of the homeowner's one- to four-family dwelling covered by an FHA-insured mortgage. A Plan issuer may be a State, an insurance company, a warranty company, a Risk Retention Group as defined in 15 U.S.C. 3901a(4)(A)–(H) (Supp. IV 1986), a builder, or by any other HUD-approved entity with the required insurance backing. A Plan must specify in its coverage contract the obligations and duties of the Plan issuer to the homeowner (or to the homeowner's successor in interest) with respect to the warranties covering the dwelling.

Plumbing means all components of piped on-site gas, fluid, or fluid-based systems that are not separately covered by manufacturers' warranties, and includes any on-site water supply or sewage disposal systems.

State includes the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

Structural defect is actual physical damage to the designated load-bearing portions of a home caused by failure of such load-bearing portions that affects their load-bearing functions to the extent that the home becomes unsafe, unsanitary, or otherwise unlivable. Load-bearing components for the purpose of defining structural defects are defined as follows: Footing and foundation systems; beams; girders; lintels; columns; load-bearing walls and partitions; roof framing systems; and floor systems, including basement slabs in homes constructed in designated areas (see § 203.207) containing expansive or collapsible soils. Damage to the following nonload-bearing portions of the home is not considered a structural defect: Roofing; drywall and plaster; exterior siding; brick, stone, or stucco veneer; floor covering material; wall tile and other wall coverings; nonload-bearing walls and partitions; concrete floors in attached garages; electrical; plumbing, heating, cooling and ventilation systems; appliances, fixtures and items of equipment; paint; doors and windows; trim, cabinets, hardware, and insulation. Repair of a structural defect is limited to:

(1) The repair of damage to designated load-bearing portions of the home which is necessary to restore their load-bearing ability;

(2) The repair of designated non-load-bearing portions, items or systems of the home, damaged by the structural defect, which make the home unsafe, unsanitary or otherwise unlivable (such as the repair of inoperable windows, doors and the restoration of functionality of damaged electrical, plumbing, heating, cooling, and ventilating systems); and

(3) The repair and cosmetic correction of only those surfaces, finishes and coverings, original with the home, damaged by the structural defect, or which require removal and replacement attendant to repair of the structural defect, or to repair other damage directly attributable to the structural defect. It is the intent of this section to ensure the repair of a covered home to a condition approximately the condition just prior to the defect, not to a like new condition. It does not require refinishing of all interior or exterior surfaces if only one or two surfaces are damaged. It does not cover personal property items, not a part of the structure, which are damaged by the defect or as a result of the defect. It excludes damage covered by a homeowner's casualty insurance policy.

Warranty company is an insurance company or other entity that provides insurance backing for an insured ten-year protection plan which, if the Plan issuer fails to meet its obligations to a covered homeowner, will assume the obligations and perform in accordance with the Plan's coverage contract with the homeowner.

§ 203.201 Scope.

Effective August 6, 1991, the provisions and requirements set forth in § 203.202 through § 203.209 apply to one- to four-family dwellings covered by HUD mortgage insurance (including family units in a condominium where