

necessary approvals have been granted. All items requiring revision or more detailed information as determined by the review of the preliminary submission will be resolved before the sponsor prepares the final submission. All documents shall be executed in a professional manner and shall carry the appropriate designation attesting to the professional qualifications of the architect, engineer, land surveyor or site planner. All documents will be accurately drawn at an appropriate scale.

[52 FR 19284, May 22, 1987, as amended at 56 FR 2202, Jan. 22, 1991]

Subparts D–E [Reserved]

Subpart F—Complaints and Compensation for Construction Defects

SOURCE: 56 FR 40241, Aug. 14, 1991, unless otherwise noted.

§ 1924.251 Purpose.

This subpart contains policies and procedures for receiving and resolving complaints concerning the construction of dwellings and construction, installation and set-up of manufactured homes (herein called “units”), financed by the Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354, and for compensating borrowers for structural defects under section 509(c) of the Housing Act of 1949, as amended. Provisions of this subpart do not apply to dwellings financed with guaranteed section 502 loans.

§ 1924.252 Policy.

FmHA or its successor agency under Public Law 103–354 is responsible for receiving and resolving all complaints concerning the construction, installation and set-up of units financed by FmHA or its successor agency under Public Law 103–354. FmHA or its successor agency under Public Law 103–354 must determine whether defects are structural or non-structural. If the defect is structural and is covered by the builder’s/dealer-contractor’s (the “contractor”) warranty, the contractor is expected to correct the defect. If the contractor cannot or will not correct the defect, the costs of correcting the

defect may be paid by the Government, or the borrower may be compensated for correcting the defect, under the provisions of this subpart. If the defect is non-structural but is covered under the provisions of the contractor’s warranty or independent home warranty, the contractor is still expected to correct the defect. FmHA or its successor agency under Public Law 103–354 will assist the borrower in obtaining assistance through the independent home warranty company’s and/or manufacturer’s complaint resolution process. However, if the contractor cannot or will not correct a non-structural defect covered under the provisions of the contractor’s warranty, the Government will not pay the costs for correcting the defect, nor will the borrower be compensated for doing so.

§ 1924.253 Definitions.

As used in this subpart, the following definitions apply:

(a) *Newly constructed dwelling*. One which:

(1) Is financed with a section 502 insured loan;

(2) Was constructed substantially or wholly under the contract method, or under a conditional commitment, or, as to only work performed by a contractor or covered by a manufacturer’s warranty, under the mutual self-help program;

(3) Was not more than one year old and not previously occupied as a residence at the time financial assistance was granted unless FmHA or its successor agency under Public Law 103–354 has extended the conditional commitment issued on a newly constructed dwelling in accordance with 7 CFR part 3550; and

(4) Had the required construction inspections performed by FmHA or its successor agency under Public Law 103–354, the Department of Housing and Urban Development (HUD), or the Veterans Administration (VA).

(b) *Newly constructed manufactured home (unit)*. One which:

(1) Is financed with a section 502 insured loan;

(2) Was not more than one year old and not previously occupied as a residence at the time financial assistance was granted; and

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(3) Is built to the Federal Manufactured Home Construction and Safety Standards (FMHCSS) and is certified by an affixed label as shown in exhibit J of subpart A of part 1924 of this chapter.

(c) *Non-structural defect.* A construction defect which does not affect the overall useful life, habitability, or structural integrity of the dwelling or unit. Some non-structural defects may be covered under the contractor's warranty. Examples of non-structural defects include, but are not limited to:

(1) Cracks attributed to normal curing or settlement.

(2) Cosmetic defects in cabinets, woodwork, floorcovering, wallcovering, ornamental trim, etc.

(3) Improper or incomplete seeding or sodding of yard, or failure of trees, shrubs, grass and other landscaping items to thrive.

(4) Improper grading of yard, unless the grade is causing damage which may lead to a structural defect.

(d) *Structural defect.* A defect in the dwelling or unit, installation or set-up of a unit, or a related facility or a deficiency in the site or site development which directly and significantly reduces the useful life, habitability, or integrity of the dwelling or unit. The defect may be due to faulty material, poor workmanship, or latent causes that existed when the dwelling or unit was constructed. The term includes, but is not limited to:

(1) Structural failures which directly and significantly affect the basic integrity of the dwelling or unit such as in the foundation, footings, basement walls, slabs, floors, framing, walls, ceiling, or roof.

(2) Major deficiencies in the utility components of the dwelling or unit or site such as faulty wiring, or failure of sewage disposal or water supply systems located on the property securing the loan caused by faulty materials or improper installation.

(3) Serious defects in or improper installation of heating systems or central air conditioning.

(4) Defects in or improper installation of safety and security devices, such as windows, external doors, locks, smoke detectors, railings, etc., as well as failure to provide or properly install

devices to aid occupancy of dwellings by handicapped individuals, where required.

(5) Defects in or improper installation of protective materials, such as insulation, siding, roofing material, exterior paint, etc.

[56 FR 40241, Aug. 14, 1991, as amended at 67 FR 78327, Dec. 24, 2002]

§§ 1924.254–1924.257 [Reserved]

§ 1924.258 Notification of borrowers.

FmHA or its successor agency under Public Law 103–354 will notify by letter all borrowers who receive Section 502 RH financial assistance for a newly constructed dwelling or unit of the provisions of this subpart. Subsequent owners of eligible dwellings will also be notified in accordance with this section. Borrowers will be notified within 30 days after the loan is closed, or within 30 days after final inspection, whichever is later. This notification will contain information concerning time frames for filing claims under this subpart. FmHA or its successor agency under Public Law 103–354 will also notify and advise borrowers of the construction defects procedure at any time construction defects are apparent within the statutory time frame and favorable results cannot be obtained from the contractor. This notification will be documented in the borrower's case file.

§ 1924.259 Handling dwelling construction complaints.

This section describes the procedure for handling construction defect complaints.

(a) Each borrower who complains about construction defects will be requested to make a written complaint using a format specified by FmHA or its successor agency under Public Law 103–354 (available in any FmHA or its successor agency under Public Law 103–354 office). All known defects will be listed. An oral complaint may be accepted if making a written complaint will impose a hardship on the borrower. If an oral complaint is made, FmHA or its successor agency under Public Law 103–354 will notify the contractor on behalf of the borrower.