

PART 1924 - CONSTRUCTION AND REPAIR

Subpart F - Complaints and Compensation for Construction Defects

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PART 1924 - CONSTRUCTION AND REPAIR

Subpart F - Complaints and Compensation for Construction Defects

§ 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 Rural Development, 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.

As delegated by the State Director, the Rural Development State and/or Field Office is responsible for receiving and resolving all complaints concerning the construction of dwellings and the construction, installation and set-up of units financed by Rural Development, with such assistance and advice as necessary. Rural Development 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, the contractor is still expected to correct the defect. Rural Development 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, 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 the Agency has extended the conditional commitment issued on a newly constructed dwelling in accordance with 7 CFR part 3550; and (Revised 01-23-03, SPECIAL PN.)

(4) Had the required construction inspections performed by the Agency, 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

(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. (Revised 01-23-03, SPECIAL PN.)

(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.

§§ 1924.254 - 1924.257 [Reserved]

§ 1924.258 Notification of borrowers.

Rural Development will notify by letter all borrowers who receive Section 502 Rural Housing (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 by sending Guide Letter 1924-1 within 30 days after the loan is closed, or within 30 days after the final inspection, whichever is later. This notification will contain information concerning timeframes for filing claims under this subpart. Rural Development will also notify and advise borrowers of the construction defects procedure at any time construction defects are apparent 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. For borrowers who have complaints concerning manufactured housing, see §1924.260 of this subpart. For borrowers whose dwellings are covered by independent or insured home warranties, see §1924.261 of this subpart. For borrowers whose dwellings were constructed by the self-help method, see §1924.262 of this subpart.

(a) Each borrower who complains about construction defects will be requested to make a written complaint using Exhibit A of this subpart. 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, Rural Development will send the contractor Exhibit B of this subpart on behalf of the borrower. Whichever method is used, a copy of the correspondence will be kept in the borrower's case file. In addition, Rural Development will complete Part 1 of Form RD 1924-4, "Documentation of Construction Complaint/Request for Compensation for Construction Defects," to document that the claim has been made and keep this form in the borrower's case file.

(b) The borrower will be informed that if, after 30 calendar days, the defects have not been corrected or other satisfactory arrangements made by the contractor, the borrower should notify Rural Development using Exhibit C of this subpart. If the borrower does not contact the Rural Development Office again, it will be assumed that the complaint has been satisfied and will take no further action will be taken.

(c) Rural Development will complete and mail Exhibit D of this subpart to advise the contractor in writing of the borrower's complaint, the time and date of planned inspection by Rural Development personnel, and request that the contractor accompany the inspector and borrower on a joint inspection of the property in an attempt to resolve the complaint.

(d) If, prior to the planned inspection, the contractor informs Rural Development that the alleged defect(s) has been or will be corrected within 30 calendar days, Rural Development will notify the borrower using Exhibit E of this subpart and the case will be closed unless a subsequent complaint is received from the borrower.

(e) If the case is not resolved as outlined in paragraph (d) of this section, the planned inspection of the property will be made and Rural Development will:

(1) Prepare an inspection report including at least the following information:

- (i) A list of which defects are structural and which are non-structural.
- (ii) A description of the defect, its cause or probable cause, and whether or not it is covered under the contractor's warranty or by a manufacturer's warranty.
- (iii) A description of the repairs necessary to correct the defect and an estimate of the repair cost, or a recommendation that it is not feasible to repair the property.
- (iv) A structural engineer report will be obtained if the Rural Development inspection indicates validity to the claim. This report will be utilized by Rural Development to determine what defects are covered by the program, if any.

(2) Notify the borrower, contractor and manufacturer, if applicable, in writing of the findings and who has been determined responsible for correcting the defects using Exhibit F of this subpart.

- (i) If defects are determined to be covered under the contractor's warranty, Rural Development will advise the contractor that the repairs must be completed within 30 calendar days or other time period agreed to by the borrower, the contractor, and Rural Development.
- (ii) Rural Development will further advise the contractor and/or manufacturer that if the defects are not corrected, the Government will consider compensating the borrower for the costs of correcting the defect(s). In such a case, the contractor and/or manufacturer may be liable for costs paid by the Government and may be subject to suspension and/or debarment pursuant to Subpart M of Part 1940 of this chapter (available in any Rural Development office). Rural Development will determine if the contractor or a manufacturer is responsible for the defect, with assistance from the State Architect/Engineer, if necessary. Even if the manufacturer is determined to be solely responsible for the defect, the contractor will still be held liable for correction of the defect.

(3) Should a contractor refuse to correct a defect after being officially requested in writing to do so, the State Director should promptly initiate formal suspension and debarment proceedings against the contractor (as a company and as individual(s)) in accordance with Subpart M of Part 1940 of this chapter (available in any Rural Development office). The contractor's

failure to reply to official correspondence or inability to correct a defect constitutes noncompliance.

(4) If the contractor is willing to correct legitimate defects but the borrower refuses to permit this, Rural Development will document the facts in the borrower's case file. If the borrower chooses to file a claim for compensation for these defects, the circumstances of the borrower's refusal will be reviewed and may be sufficient grounds for disapproval of the claim.

(f) If Rural Development is unable to determine responsibility for correcting defects, or if a review of the findings is requested by the contractor or borrower, the State Office will request assistance from the State Program Support Services or the National Office, as appropriate.

(g) All correspondence and other documentation in connection with complaints shall be maintained in a complaint file under the contractor's name and will be kept in the Rural Development operational files, in accordance with RD Instruction 2033-A (available in any Rural Development office). Such records should be reviewed periodically to aid in evaluating the performance of contractors or for formulating a course of action to be taken.

§ 1924.260 Handling manufactured housing (unit) construction complaints.

When a borrower who has purchased a manufactured home (or "unit") complains about construction defects, the borrower will be instructed to first contact the dealer-contractor from whom the unit was purchased. Rural Development will assist the borrower in obtaining assistance through the dealer-contractor's and/or HUD's complaint resolution process. If the dealer-contractor cannot or will not correct the defect, the borrower should proceed with the official complaint resolution process for manufactured housing administered by HUD and State Administrative Agencies (SAA). See Exhibit G of this subpart for a list of contact offices for HUD and SAAs for each state. If the complaint resolution process does not result in correction of the defect, the borrower's complaint will be handled in accordance with §1924.259 of this subpart.

§ 1924.261 Handling complaints involving dwellings covered by an independent or insured home warranty plan.

Borrowers with complaints involving dwellings covered by independent or insured home warranty plans will be instructed to first contact the warranty company and follow the complaint resolution process for that company, with the assistance of Rural Development, if needed. If this action does not result in correction of the defect, Rural Development will document in the case file that the home warranty plan has been

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contacted and the reasons, if known, why they will not correct the defect(s). The borrower's complaint will then be handled in accordance with §1924.259 of this subpart. Inadequate warranty performance will be reported in accordance with Exhibit L of Subpart A of this part.

§ 1924.262 Handling complaints involving dwellings constructed by the self-help method.

When a borrower whose dwelling was constructed by the self-help method complains about construction defects, Rural Development will determine whether the defect is the result of work performed by a contractor or work performed by the borrower under the guidance of the self-help group. Defects which are determined to be the responsibility of a contractor will be handled in accordance with §1924.259 of this subpart. Defects determined to be the result of work performed by the borrower are not eligible for compensation under this subpart.

§§ 1924.263 - 1924.264 [Reserved]

§ 1924.265 Eligibility for compensation for construction defects.

(a) To be eligible for assistance under this subpart, the following criteria must be met:

(1) The approval official, in consultation with the State Architect/Engineer and/or Construction Inspector, must determine that:

(i) The construction is defective in workmanship, material or equipment, or

(ii) The dwelling or unit has not been built in substantial compliance with the approved drawings and specifications, or

(iii) The dwelling or unit does not comply with the Rural Development construction standards in effect at the time the loan was approved or the conditional commitment was issued, or

(iv) The property does not meet code requirements.

(2) The claim must be for one or more of the following:

- (i) To pay for repairs;
- (ii) To compensate the owner for repairs;
- (iii) To pay emergency living or other expenses resulting from the defect; or
- (iv) To acquire title to property.

(3) The dwelling or unit must be newly constructed as defined in § 1924.253 of this subpart and financed with an insured Section 502 RH loan.

(4) The claim seeking compensation from Rural Development must be filed with Rural Development within 18 months after the date financial assistance is granted. Claims filed beyond the 18-month period must have been documented by Rural Development in the borrower's case file or on Part 1 of Form RD 1924-4, prior to expiration of the 18-month period. For loans made to construct a new dwelling or erect a new manufactured housing unit, financial assistance is granted on the date of final construction inspection and acceptance by the borrower and Rural Development. Claims must be submitted by completing Part 2 of Form RD 1924-4.

(5) Any obligation of the contractor to correct the defect(s) under a contractor's warranty must have expired, or the contractor is responsible for making corrections under the contractor's warranty but is unable or unwilling to do so.

(b) Subsequent owners of eligible dwellings or units who are also Section 502 borrowers may be eligible to receive compensation for construction defects. These owners will be notified in accordance with §1924.258 of this subpart. However, the claim for compensation must be filed in accordance with paragraph (a)(4) of this section within the 18-month period established for the original RH borrower.

§ 1924.266 Purposes for which claims may be approved.

(a) Eligible purposes. A claim may be approved to:

- (1) Pay, or reimburse the borrower for costs already paid, to repair major structural defects which are completed in accordance with plans and specifications approved by Rural Development. Repairs must be made by a reputable licensed contractor and a warranty covering the repairs will be issued by the contractor when the repairs are completed, as prescribed in

Subpart A of this part. Payment will be based on actual cost of the development and the borrower must provide evidence to reasonably establish the development cost. Workmanship and materials used in repairs must be consistent with the level of quality specified in the original dwelling or unit specifications and/or comparable to the items being replaced. Payment may be made:

- (i) to cover damages which are a direct result of the defect to permanent enhancements, such as landscaping, completion of unfinished living spaces, etc., made to the dwelling or unit, installation or set-up of the unit, or related facilities, and
- (ii) for costs approved by the Agency for professional reports by engineers, architects or others needed to determine cause of or means to repair the defect.

(2) Reimburse the borrower for funds expended for emergency repairs. Emergency repairs are those repairs necessary to preserve the integrity of the structure, to prevent damage or further damage to personal property or fixtures in the dwelling or unit and related facilities, or to prevent or eliminate immediate health hazards. Receipts or other evidence of borrower's expenditures must be provided.

(3) Acquire title to the property by the Government and, when appropriate, compensate the claimant for any loss of borrower contribution at the time the loan was closed. Conveyance of properties under this section will be handled in accordance with 7 CFR part 3550.

- (i) Before accepts a conveyance, the borrower must attempt to sell the dwelling or unit in accordance with Subpart C 7 CFR part 3550, if the dwelling is considered decent, safe and sanitary as prescribed in 7 CFR part 3550. If the property is sold, the Agency will:

- (A) Pay the borrower's relocation expenses, including temporary living expenses as prescribed in paragraph (a)(4) of this section, until another suitable property can be located;

- (B) Pay related sales expenses, as prescribed in 7 CFR part 3550, if the property is sold for less than the debt against it;

(C) Release the borrower from personal liability for the remaining Agency debt; and

(D) Process an application for a new RH loan if the borrower so desires and is still eligible for Agency assistance.

(ii) If the dwelling or unit is not considered decent, safe and sanitary as prescribed in 7 CFR part 3550, the Agency should accept a voluntary conveyance of the property under the provisions of 7 CFR part 3550. Compensation for properties taken into inventory under this paragraph may not exceed the difference between the present market value of the security as established by the appraisal when the loan was made and the amount of the Rural Development loan and any prior liens. (Revised 01-23-03, SPECIAL PN.)

(iii) A borrower contribution which may be compensated for under this paragraph may be such things as:

(A) A borrower's land or cash contribution,

(B) Development work done by the borrower under the self-help program or borrower method of construction, the cost of which was not included in the loan funds,

(C) Attorney fees, abstract costs or title insurance costs actually paid by the claimant in connection with closing the loan.

(4) Pay or reimburse the borrower for temporary living expenses, miscellaneous expenses, storage of household goods, and moving expenses incurred as a result of the defect.

(i) Payment under this paragraph may be made under either of the following circumstances:

(A) The property is acquired by the Government in accordance with 7 CFR part 3550 and Rural Development determines that the dwelling is not habitable and the severity of the defect(s) prevents the property from being repaired and made suitable as a permanent residence for the borrower.

(B) The property is not acquired by the Government but Rural Development determines that the dwelling is not habitable or must be vacated in order to repair the defects.

(ii) Claims for compensation under paragraph (a)(4) of this section are limited as follows:

(A) Compensation may be granted for temporary living expenses for not more than 45 calendar days per claim unless a longer period is authorized by the National Office. Compensation will be paid for actual cost to the claimant not to exceed the Government per diem rate for the area where the borrower's dwelling or unit is located. Reimbursement may be claimed for expenses such as food, lodging, laundering, etc., which would not have been incurred had the claimant remained in the house.

(B) Compensation may be granted for actual miscellaneous expenses not to exceed \$500 to cover such items as utility connect and disconnect fees.

(C) Compensation may be granted for moving and storage expenses not to exceed \$5,000 unless authorized by the State Director and not to exceed the actual cost of moving the claimant household with personal belongings a distance of not more than 50 miles from the original residence. Compensation for storage expenses may not exceed that amount paid to store household furnishings for 45 days.

(D) A strict accounting of the use of such funds must be maintained by the borrower and will be verified by Rural Development.

(5) Compensate the claimant for reasonable interest paid on loans obtained for the sole purpose of correcting structural defects or other approved purposes under this section.

(b) Ineligible purposes. Compensation will not be granted for:

(1) Completion of a dwelling or unit or installation of materials/items required under the construction contract and/or specifications.

(2) Defective items which were not completed under the contract method or under a conditional commitment and supported by a builder's warranty. Work performed under the borrower method or self-help program without a warranty by a responsible party is not eligible for compensation.

(3) Damage caused by defective design, workmanship, or material in making additions to or remodeling the dwelling or unit or related facilities which were not financed or approved by Rural Development.

(4) The loss of past, present or future wages or salary directly or indirectly resulting from the defect.

(5) Treatment for physical or psychological damages including medical and dental claims.

(6) Death benefits or funeral expenses.

(7) Damages encountered as a result of war, civil disorder, flood, tornado, lightning, earthquake or acts of nature which the structure was not designed to withstand.

(8) Damages resulting from the homeowner's negligence or failure to properly maintain the property.

(9) Damage to personal property.

§§ 1924.267 - 1924.270 [Reserved]

§ 1924.271 Processing applications.

(a) An application for compensation for construction defects shall be submitted by the claimant to the Rural Development Office where they received the 502 RH loan on Form RD 1924-4. The application shall be completed in its entirety. All structural defects and claims for which compensation is sought will be listed. If necessary, Rural Development shall assist the claimant in preparing and submitting the application.

(b) Rural Development will review applications for compensation for construction defects to determine if the claim appears to meet the eligibility requirements as detailed in §§1924.265 and 1924.266 of this subpart.

(c) If a contractor's warranty has been issued, Rural Development will follow the applicable portions of §1924.259 of this subpart before processing the application.

(d) If the defect is not covered by a contractor's warranty or the contractor has failed to perform after proper notification under the warranty, or Rural Development has evidence that the contractor is unable or unwilling to make the repairs, the local office will send the claim file to the State Office.

(e) The borrower's case file will contain all of the following completed forms and documents as well as other information supporting the validity of the claim.

(1) Form RD 1924-4 completed and signed by the claimant and the State Director.

(2) Report of inspection completed and signed by the Rural Development employee who made the inspection.

(3) Drawings, specifications and cost estimates of repairs.

(4) The Rural Development Reviewer's comments and recommendations.

(f) Borrowers will be told not to incur any expenses for repairs or temporary living expenses, except for emergency situations, until funds have been allocated and the request has been approved under § 1924.273 of this subpart.

§ 1924.272 National Office authorization.

(a) All claims for compensation for construction defects must be submitted to the National Office for authorization of funds prior to approval. The State Director will send requests to the National Office with the following information:

(1) Name of the claimant(s).

(2) Case number.

(3) Detailed description of the defect(s) and the repairs necessary to correct the defect(s).

(4) Copy of Form RD 1924-4 signed by the State Director.

(b) Funding of claims will be authorized in writing by the National Office with a copy of the authorization sent to the Finance Office, Attention: Head, Appropriation Accounting Section. After receipt of the authorization from the

National Office, claims may be approved and submitted to the Finance Office for funding.

§ 1924.273 Approval or disapproval.

(a) Claimants will be notified in writing of the decision on the claim within 60 days of the date that Part 2 of Form RD 1924-4 is signed by the borrower. If the claim or any part of the claim is denied at any level, the claimant will be informed in writing of the reason(s) for the denial and advised of appeal rights in accordance with 7 CFR Part 11.

(b) When the National Office obligates authorizes funds for the claim, repairs may begin.

§ 1924.274 Final inspection.

Except for emergency repairs, all repair work must be performed in accordance with Subpart A of this part. In all cases, Rural Development will make a final inspection of the repair work performed before final payment is made for the work. Any excess grant funds will be deobligated in accordance with § 1924.275 of this subpart.

§ 1924.275 Handling of excess funds.

Funds in excess of the amount actually required for repairs or other authorized expenses must be deobligated. The State Office will prepare RD Form, 1940-10 Cancellation of U.S. Treasury Check and/or obligation and send the executed document to the National Office email – SFHDIRECTPROGRAM@usda.gov. The National Office will notify the State once funds have been deobligated.

§ 1924.276 Action against contractor.

If Rural Development pays for correction of construction defects which are the responsibility of the contractor, debarment proceedings will be initiated against the contractor in accordance with Subpart M of Part 1940 of this chapter (available in any Rural Development office), even if the contractor has gone out of business, declared bankruptcy, cannot be located, etc. The debarment will be pursued in both the contractor's company name, the principal parties as individuals, and any successor entities, if known. If the manufacturer of the defective product is determined to be solely responsible, no action will be taken against the contractor. In such a case, debarment will be initiated against the manufacturer. An assignment of the borrower's claim against the contractor or other party will be obtained if it appears to the approval

officials, with any necessary advice from the Office of the General Counsel, that recovery is reasonably possible.

§§ 1924.277 - 1924.298 [Reserved]

§ 1924.299 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision or failure to take action in the case of an omission would adversely affect the Government's interest. The Administrator will exercise this authority upon the request of the State Director with the recommendation of the Assistant Administrator for Housing, or upon request initiated by the Assistant Administrator for Housing. Requests for exception must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action and show how the adverse effect will be eliminated or minimized if the exception is granted.

§ 1924.300 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0082. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 2 hours per response, with an average of .28 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0082), Washington, D.C. 20503.

Attachments: Exhibits A, B, C, D, E, F, G and H.

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Exhibit A - NOTICE TO CONTRACTOR FROM BORROWER OF CONSTRUCTION DEFECTS

Date: _____

Dear _____ (Contractor) _____:

Under the terms of the Builder's Warranty you issued on _____ (Date) _____, I am hereby notifying you of the following construction defects in the house you constructed for me at _____ (Address) _____:

Please contact me immediately to make arrangements to correct these defects within 30 days, as specified in the Builder's Warranty. You may reach me at _____ (Phone number) _____ between the hours of _____ (List times available) _____.

Sincerely,

(Borrower)

cc:
Rural Development Office

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**Exhibit B - NOTICE TO CONTRACTOR BY RURAL DEVELOPMENT OF
CONSTRUCTION DEFECTS**

Date: _____

Dear (Contractor) :

Rural Development has received a complaint from (Borrower) concerning construction defects in the dwelling you constructed for them located at: (Address)_____. The defects are as follows:

Under the terms of the Builder's Warranty, which you issued on (Date) , you are required to correct these defects within 30 days from the date of this letter, or make arrangements within 30 days of the date of this letter to correct the defects at a later date if (Borrower) agrees to this.

Please contact (Borrower) at (Phone number) immediately to make arrangements to correct these defects.

Sincerely,

(Rural Development)

cc:
Borrower

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**Exhibit C - NOTICE OF CONTRACTOR'S NON-COMPLIANCE FROM BORROWER
TO RURAL DEVELOPMENT**

Date: _____

Dear (Rural Development) :

This is to inform you that the contractor who constructed my dwelling, (Contractor) , has not responded to my complaints concerning construction defects within the 30-day timeframe specified in the Builder's Warranty.

Please proceed with further actions in accordance with 7 CFR Part 1924, Subpart F.

Sincerely,

(Borrower)

cc:
Contractor

oOo

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**Exhibit D - NOTICE TO CONTRACTOR OF PLANNED INSPECTION OF
CONSTRUCTION DEFECTS**

Date: _____

Dear (Contractor) :

On (Date) , you were notified of a complaint concerning construction defects in the dwelling you constructed for (Borrower) . A copy of that notification is attached.

 (Borrower) has informed Rural Development that you have not taken action to correct these defects within the 30-day timeframe specified in the Builder's Warranty you issued on (Date) .

Therefore, Rural Development has scheduled an inspection of the property in question on (Date) at (Time) . You are required to attend this inspection.

 (Borrower) will also be present. If you cannot keep this appointment, you must notify Rural Development County Office immediately at (Phone number) .

Sincerely,

(Rural Development)

Attachment

cc:

Borrower

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(07-19-24) PN 619

**Exhibit E - NOTICE TO BORROWER FROM RURAL DEVELOPMENT OF
CONTRACTOR'S COMPLIANCE OR INTENDED COMPLIANCE**

Date: _____

Dear (Borrower) :

We have been informed by (Contractor) that the construction defects you complained about have either been corrected, or arrangements have been made to correct these defects within 30 days from the date of this letter.

If this is not the case, or if (Contractor) does not complete repairs within 30 days, please contact Rural Development County Office at (Phone number) .

If you do not contact Rural Development concerning this matter, we will assume that the defects have been corrected to your satisfaction.

Sincerely,

(Rural Development)

cc:
Contractor

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Exhibit F - NOTICE TO CONTRACTOR OF INSPECTION FINDINGS

Date: _____

Dear (Contractor) :

On (Date) , an inspection was made of the dwelling which you constructed for (Borrower) at (Address) . Based on this inspection, a structural engineer report was obtained from (inspection company name) and the following defects were found:

Structural Non-structural

- 1.
- 2.
- 3.

etc.

Rural Development has determined that you are responsible for correcting Item(s) (List numbers) . These items must be corrected, or arrangements made to correct them, within 30 days from the date of this letter. If you do not comply with this notification, Rural Development may consider compensating the borrower for the cost of repairs and related expenses for those defects classified as "structural." If this is necessary, you may be barred from participating in future government contracts.

Please contact (Borrower) at (Phone number) immediately to make arrangements to correct these defects.

Sincerely,

(Rural Development)

cc:
Borrower

oOo

(07-19-24) PN 619

Exhibit G - STATE CONTACT OFFICES FOR HUD AND/OR SAAs

ALABAMA Manufactured Housing Commission
 908 South Hull Street
 Montgomery, AL 36130-3401
 (205) 242-4036
 FAX: (205) 240-3178

ALASKA U.S. Department of Housing and Urban Development
 State and Consumer Liaison Branch
 Manufactured Housing and Construction
 Standards Division
 451 - 7th Street, S.W.
 Washington, D.C. 20410-8000
 (202) 708-2210
 FAX: (202) 708-0299

ARIZONA Department of Building and Fire Safety
 Office of Manufactured Housing
 1540 West Van Buren
 Phoenix, AZ 85007
 (602) 255-4072
 FAX: (602) 255-4962

ARKANSAS Arkansas Manufactured Home Commission
 401 West Capitol Avenue, Suite 440
 First Federal Plaza
 Little Rock, AR 72201
 (501) 324-9032
 FAX: (501) 324-9034

CALIFORNIA Department of Housing and Community Development
 Division of Codes and Standards
 Manufactured Housing Section
 P.O. Box 31
 Sacramento, CA 95812-0031
 (916) 445-3338
 FAX: (916) 327-4712

- COLORADO Division of Housing
Department of Local Affairs
1313 Sherman Street, #419
623 Centennial Building
Denver, CO 80203
(303) 866-2033
FAX: (303) 866-4485
- CONNECTICUT U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299
- DELAWARE U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299
- FLORIDA Bureau of Mobile Homes and R.V. Construction
Division of Motor Vehicles
2900 Apalachee Parkway, Room #A129
Tallahassee, FL 32399
(904) 488-8600
FAX: (904) 488-8983
- GEORGIA Manufactured Housing Division
State Fire Marshal's Office
#2 Martin Luther King, Jr. Drive
Atlanta, GA 30334
(404) 656-3687
FAX: (404) 656-7628

HAWAII U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

IDAHO Department of Labor and Industrial Services
277 North Sixth Street
Statehouse Mall
Boise, ID 83720
(208) 334-3950
FAX: (208) 334-2683

ILLINOIS U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

INDIANA Department of Fire and Building Services
Code Enforcement Division
Industrialized Building Systems
1099 North Meridian Street, Suite 900
Indianapolis, IN 46204
(317) 232-6422
FAX: (317) 232-0146

IOWA Building Code Bureau
Division of State Fire Marshal
Wallace State Office Building
Des Moines, IA 50319
(515) 281-5821
FAX: (515) 242-6299

- KANSAS U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299
- KENTUCKY Manufactured Housing Division
Department of Housing, Building and
Construction
1047 U.S. 127 South Building
Frankfort, KY 40601
(502) 564-3626
FAX: (502) 564-6799
- LOUISIANA Office of Louisiana State Fire Marshal
5150 Florida Boulevard
Baton Rouge, LA 70806
(504) 925-4911
FAX: (504) 925-4241
- MAINE Manufactured Housing Board
Department of Professional and Financial
Regulation
State House Station 35
Augusta, ME 04333
(207) 582-8723
FAX: (207) 582-5415
- MARYLAND Department of Economic and Community Development
Maryland Codes Administration
100 Community Place
Crownsville, MD 21032-2023
(301) 974-2701
FAX: (301) 974-2259

MASSACHUSETTS U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

MICHIGAN Manufactured Housing and Land Resources Division
Corporation and Securities Bureau
P.O. Box 30222
Lansing, MI 48909
(517) 334-6203
FAX: (517) 334-61553

MINNESOTA Building Codes and Standards Division
Department of Administration
408 Metro Square
7th and Robert Streets
St. Paul, MN 55101
(612) 296-4639
FAX: (612) 296-0244

MISSISSIPPI Mobile Home Inspection Division
Office of the Fire Marshal
P.O. Box 22542
Jackson, MS 39205-2542
(601) 359-1061
FAX: (601) 359-1370

MISSOURI Manufactured Housing and RV Department
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(314) 751-3234
FAX: (314) 751-1847

MONTANA U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

NEBRASKA Department of Health
Division of Housing and Recreational
Vehicles
P.O. Box 95007
Lincoln, NE 68509-5007
(402) 471-0518
FAX: (402) 471-0383

NEVADA Nevada Department of Commerce
Manufactured Housing Division
2601 E. Sahara Avenue, Suite 259
Las Vegas, NV 89104
(702) 486-4137
NO FAX NUMBER

NEW HAMPSHIRE U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

NEW JERSEY Division of Housing and Development
Bureau of Code Services
Industrial Buildings
3131 Princeton Pike, CN 816
Trenton, NJ 08625-0816
(609) 530-8833
FAX: (609) 530-8858

- NEW MEXICO Manufactured Housing Division
 Regulation and Licensing Department
 Bataan Memorial Building, Room 201
 Santa Fe, NM 87503
 (505) 827-6340
 FAX: (505) 827-7074
- NEW YORK Housing and Building Codes Bureau
 Division of Housing and Community Renewal
 One Fordham Plaza, Room S-356
 Bronx, NY 10458
 (212) 519-5272
 FAX: (212) 519-5379
- NORTH CAROLINA Manufactured Housing Division
 Department of Insurance
 P.O. Box 26387
 Raleigh, NC 27611
 (919) 733-3901
 FAX: (919) 733-9171
- NORTH DAKOTA U.S. Department of Housing and Urban Development
 State and Consumer Liaison Branch
 Manufactured Housing and Construction
 Standards Division
 451 - 7th Street, S.W.
 Washington, D.C. 20410-8000
 (202) 708-2210
 FAX: (202) 708-0299
- OHIO U.S. Department of Housing and Urban Development
 State and Consumer Liaison Branch
 Manufactured Housing and Construction
 Standards Division
 451 - 7th Street, S.W.
 Washington, D.C. 20410-8000
 (202) 708-2210
 FAX: (202) 708-0299

OKLAHOMA U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

OREGON Building Codes Agency
Manufactured Structures and Parks Section
1535 Edgewater, N.W.
Salem, OR 97310
(503) 373-1235
FAX: (503) 378-2322

PENNSYLVANIA Division of Manufactured Housing
Department of Community Affairs
Forum Building #508
Harrisburg, PA 17120-0155
(717) 787-9682
FAX: (717) 727-6074

PUERTO RICO U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

RHODE ISLAND Department of Administration
Division of Central Services
State Building Commission
One Providence Hill
Providence, RI 02908
(401) 277-3033
FAX: (401) 277-2599

SOUTH CAROLINA Manufactured Housing Section
Division of General Services
1201 Main Street, Suite 820
Columbia, SC 29201
(803) 737-0567
FAX: (803) 737-0653

SOUTH DAKOTA Department of Commercial Inspection and
Regulation
118 West Capitol Avenue
Pierre, SD 57501
(605) 773-3697
FAX: (605) 773-4117

TENNESSEE Manufactured Housing Section
Division of Fire Prevention
500 James Robertson Parkway, Suite 301
Nashville, TN 37243-1160
(615) 741-7170
FAX: (615) 741-1583

TEXAS Manufactured Housing Division
Department of Licensing and Regulation
Box 12157, Capitol Station
Austin, TX 78711
(512) 463-7356
FAX: (512) 475-2854

UTAH Department of Commerce
Division of Occupational and Professional Licensing
P.O. Box 45802
Salt Lake City, UT 84145-0802
(801) 530-6628
FAX: (801) 530-6511

VERMONT U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

(07-19-24) PN 619

VIRGINIA Office of Code Enforcement
Department of Housing and Community
Development
205 North Fourth Street, 4th Floor
Richmond, VA 23219
(804) 786-5040
FAX: (804) 371-8093

WASHINGTON Construction Compliance Section
Department of Labor and Industries
805 Plum Street, S.E.
Olympia, WA 98504-9689
(206) 586-5918
FAX: (206) 586-5895

WEST VIRGINIA U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

WISCONSIN Manufactured Homes Program
Safety and Buildings Division
P.O. Box 7969
Madison, WI 53707
(608) 267-7935
FAX: (608) 267-9566

WYOMING U.S. Department of Housing and Urban Development
State and Consumer Liaison Branch
Manufactured Housing and Construction
Standards Division
451 - 7th Street, S.W.
Washington, D.C. 20410-8000
(202) 708-2210
FAX: (202) 708-0299

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Exhibit H - COMPLAINTS AND COMPENSATION FOR CONSTRUCTION DEFECTS CHECKLIST

Complaints and Compensation for Construction Defects Checklist

DETAILED INSTRUCTIONS ARE LOCATED THROUGHOUT RD INSTRUCTION 1924-F

NOTE: All correspondence and other documentation in connection with complaints shall be maintained in a complaint file under the contractor’s name and will be kept in the local office’s operational files. Records should be reviewed periodically to aid in evaluating the performance of contractors or for formulating a course of action to be taken.

Borrower Account Number: _____			
Borrower Name:		Contractor Company Name:	
Co-Borrower Name:		Contractor Name:	
Borrower Phone:		Contractor Phone:	
Borrower Email:		Contractor Email:	
Borrower Address:		Contractor Address:	

Date	
Informing Borrowers of Compensation for Construction Defects Program	
<i>All borrowers receiving Section 502 Rural Housing financial assistance for a newly constructed dwelling or other units defined in RD Instruction 1924-F will be informed of benefits available through the program. This includes new construction, new manufactured housing units, and dwellings constructed by the self-help method.</i>	
	Send Guide Letter 1924-1 to all borrowers defined above no later than 30 days from the date of final inspection (e.g. at loan conversion). (Ref. 1924.258) 1924-1 Date: _____ Date complaint filed (must be within 18 months of letter date): _____
When a Defects Complaint is Received (stick-built or modular, see below for manufactured and self-help)	
	Provide the borrower with Exhibit A, "Notice to Contractor from Borrower of Construction Defect". The borrower will complete the Exhibit, send it to the contractor, and provide RD a copy. The borrower should also be provided Exhibit C and instructed to notify RD using the Exhibit if the defects have not been corrected or arrangements made to correct the defects within 30 calendar days from the date Exhibit A was sent. NOTE: If a written complaint imposes a hardship on the borrower, RD will send Exhibit B, "Notice to Contractor by to the contractor on the borrower's behalf. A copy of Exhibit B and Exhibit C will be provided to the borrower. (Ref. 1924.259, (a) and (b))
If Defect(s) Not Corrected or Arrangements Made to Correct Defect(s) After 30 Days from Contractor Notification of Defect(s)	
	Send contractor Exhibit D, "Notice to Contractor of Planned Inspection of Construction Defects". (Ref. 1924.259, (c)) NOTE: If, prior to planned inspection, the contractor informs RD that the defect(s) has been or will be corrected within 30 calendar days, notify the borrower using Exhibit E and the case will be closed unless a subsequent complaint is received from the borrower. (Ref. 1924.259, (d))
Date	

Property Inspection	
	<p>If the case is not resolved, inspect the property and complete Form RD 1924-12, “Inspection Report”. (Ref. 1924.259, (e) (1))</p> <p>Include:</p> <ul style="list-style-type: none"> • List of structural and non-structural defects, • Defect description(s), cause or probable cause of defect(s), whether or not defect(s) is covered under contractor’s or manufacturer’s warranty, • Description(s) of repairs(s) necessary to correct the defect and an estimate of the repair cost, or a recommendation that it is not feasible to repair the property. <p>This property inspection will not be used to determine covered repairs. A structural engineer report will be necessary, if the inspection concludes that a structural defect may exist. The borrower should be advised that they must obtain a bid(s) for an inspection report from a structural engineer. This report will be paid for through the compensation for construction defect claim process.</p> <p>A quote for the report, along with RD Form 1924-4 signed by the borrower and the State Director should be submitted to the National Office by emailing them to - SFHDIRECTPROGRAM@usda.gov. The National Office will review the request and obligate funding as appropriate.</p>
Notice to Contractor of Inspection Findings	
	<p>Complete and send Exhibit F to contractor and borrower. This notice allows a repair period of 30 calendar days, or other time frame agreed to by the borrower, the contractor, and Rural Development. (Ref. 1924.259, (e)(2))</p> <p>Note: When responsibility for correcting defects is unable to be determined, or if a review of the findings is requested by the contractor or borrower, assistance will be requested from the Program Support Staff or the National Office, as appropriate. (Ref. 1924.259 (f))</p>
Contractor’s Refusal to Correct Defect(s)	
	<p>When a contractor refuses to correct a defect, promptly initiate formal suspension and debarment proceedings against the contractor (as a company and as individual(s)) in accordance with Subpart M of Part 1940. Note: See 1940-M, .607 and Exhibits A & B of 1940-M. (Ref. 1924.259 (e), (3))</p>

Borrower's Refusal to Allow Contractor to Correct Defects	
	<p>In cases where the contractor is willing to correct legitimate defects, but the borrower refuses to permit the correction, document the facts in the borrower's case file.</p> <p>The borrower's refusal may be sufficient grounds for disapproval of the initial or any subsequent claim(s) for the same defect. (Ref. 1924.259 (e), (4))</p>
Manufactured Housing Construction Complaints	
	<p>Instruct borrowers complaining about construction defects on a manufactured home to first contact the dealer-contractor from whom the unit was purchased.</p> <p>If the defect(s) will not, or cannot be corrected, use Exhibit G to assist the borrower in the official complaint resolution process for manufactured housing administered by HUD and State Administrative Agencies (SAAs)</p> <p>If the defect(s) is not corrected, the borrower's complaint will be handled in accordance with 1924.259. (Ref. 1924.260)</p>
Date	
Dwellings Covered by Independent or Insured Home Warranty Plan	
	<p>Instruct borrowers complaining about construction defects on dwellings covered by an independent or insured home warranty plan to first contact the warranty company and follow the complaint resolution process for that company.</p> <p>If the defect(s) is not corrected, document the correspondence in the case file. The borrower's complaint will be handled in accordance with 1924.259.</p> <p>Note: Inadequate warranty performance will be reported in accordance with 1924-A, Exhibit L. (Ref. 1924.261)</p>

Dwellings Constructed by the Self-Help Method	
	<p>When a borrower complains about defects on dwellings constructed by the self-help method, determine whether the defect(s) is the result of work performed by a contractor or work performed by the borrower under the guidance of the self-help group.</p> <p>Defects which are determined to be the responsibility of a contractor will be handled in accordance with 1924.259.</p> <p>Defects determined to be the result of work performed by the borrower are not eligible for compensation under 1924-F. (Ref. 1924.262)</p>
Obligating Funds to Repair Defect(s)	
	<p>When the builder refuses to make the necessary repairs, the State Office should request the borrower obtained quotes to repair the defect(s).</p> <p>Once acceptable quotes are received, the State Office should complete Form RD 1924-4 (signed by the borrower and State Director) and send the form, approval and obligations request, and the repair quotes to the National Office by emailing them to - SFHDIRECTPROGRAM@usda.gov.</p> <p>The National Office will review the request and obligate funding as appropriate.</p>
Disbursing Funds for Defect(s) Repair	
	<p>When repairs have been completed, inspected, and approved, reimbursement to the contractor can be made. Payments should be made via ACH payment directly to the contractor. State Offices should provide the contractor the ACH Vendor/Miscellaneous Payment Enrollment document (available on SharePoint).</p> <p>Once the contractor returns the form, the State Office should complete ACH Request for Disbursement of Funds document (available on SharePoint) and follow the instruction on the top of the form to submit it with the ACH Enrollment form for disbursement. Please be reminded that these forms contain PII and must be encrypted/password protected to be emailed.</p>

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