Sunshine Act Meetings

Federal Register
Vol. 53, No. 140
Thursday, July 21, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 26, 1988, 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted prusuant to 2 U.S.C. 437, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, July 28, 1988, 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft AO 1988-28:
Paul Suplizio Associates on behalf of Tele/900 Inc., dba Teleline
Draft AO 1988-32:
Terry Lee George on behalf of Frank Shurden Democrat for U.S. Congress
Status of Presidential Audits
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 88-16555 Filed 7-19-88; 2:46 pm]
BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on July 15, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, July 20, 1988.

CHANGES IN THE MEETING: The open meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: July 18, 1988.
James McAfee,
Associate Secretary of the Board.

[FR Doc. 88-16510 Filed 7-19-88; 11:15 am]
BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

Parole Commission

Record of Vote of Meeting Closure (Pub. L. 94-409) (5 U.S.C. 552b)

I, Benjamin F. Baer, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at eight-thirty o'clock am. on Monday, July 11, 1988 at the Commission's Western Office, 1301 Shoreway Road, Fourth Floor, Belmont, California 94002. The meeting ended at or about 12:30 p.m. The purpose of the meeting was to decide approximately 24 appeals from National Commissioners' decisions pursuant to 28 CFR 2.27. Nine Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Benjamin F. Baer, Saundra Brown Armstrong, Cameron M. Batjer, Jasper Clay, Jr., Vincent Fechtel, Jr., Carol Pavilack Getty, Daniel R. Lopez, G. MacKenzie Rast, and Victor M.F. Reyes.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: July 18, 1988.
Benjamin F. Baer,
Chairman, U.S. Parole Commission.

[FR Doc. 88-16538 Filed 7-19-88; 2:10 pm]
BILLING CODE 4410-C1-M

NATIONAL COUNCIL ON THE HANDICAPPED

Quarterly Meeting

AGENCY: National Council on the Handicapped.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on the Handicapped. This notice also describes the functions of the Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (P.L. 94-409).

DATES:

August 1, 1988, 9:00 a.m. to 5:00 p.m.
August 2, 1988, 8:30 a.m. to 5:00 p.m.
August 3, 1988, 9:00 a.m. to 12:00 noon

LOCATION: Away Grand Hotel, Grand Rapids, Michigan.

FOR FURTHER INFORMATION CONTACT: Andrea Farbman, National Council on the Handicapped, 800 Independence Avenue SW., Suite 814, Washington, DC 20591, (202) 267-3846, TDD: (202) 267-3232.

The National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. No. 95-602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. 98-221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commnissioner of the Rehabilitation Services Administration, and the Director of the National Institute of Disability and Rehabilitation Research (NIDRR).

The meeting of the Council shall be open to the Public. The proposed agenda includes:

Report from the Chairperson and Executive Committee
Forum: Implementing Public Policy In *Toward Independence*
Introduction of New Executive Director
Site Visits to Rehabilitation Facilities
Status Reports on the Following:

Conference on Families for Persons with Disabilities
800 Information and Referral Number
Forum on Living Arrangements for Severely Disabled Children and Youth
Commission on Special Education
Presentation on Integrated Employment
Discussion of Unfinished and New Business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on the Handicapped.

Signed at Washington, DC, on July 15, 1988.

Ethel D. Briggs,

Acting Executive Director.

[FR Doc. 88-16541 Filed 7-19-88; 2:02 pm]

BILLING CODE 6820-BS-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, August 3, 1988.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of July, 1988.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

DATE OF NOTICE: July 18, 1988.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 88-16550 Filed 7-19-88; 2:03 pm]

BILLING CODE 7550-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 25, 1988.

A closed meeting will be held on Tuesday, July 26, 1988, at 2:30 p.m. An open meeting will be held on Thursday, July 28, 1988, at 9:30 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 26, 1988, at 2:30 p.m., will be:

Formal order of investigation.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, July 28, 1988, at 9:30 a.m., will be:

1. Consideration of whether to adopt amendments to Rule 204-2, the recordkeeping rule under the Investment Advisers Act of 1940. The amendments would require advisers to retain, for Commission inspection, all advertisements and supporting records for performance information in advertisements. Advertisements and supporting records would be required to be kept for five years from the end of the fiscal year in which the advertisement was last published. For further information, please contact Dorothy M. Donohue at (202) 272-2107.

2. Consideration of whether to propose for public comment forms N-17f-1 and N-17f-2 under the Investment Company Act of 1940 and form ADV-E under the Investment Advisers Act of 1940. The forms would serve as cover sheets for accountant examination certificates which are currently required to be filed with the Commission. The forms are designed to facilitate the proper filing of examination certificates and, thus, increase the accessibility of such information to both investors and the Commission's staff. For further information, please contact John McGuire at (202) 272-2107.

3. Consideration of whether to propose for public comment Rule 17 and amendments to Rule 2 and Form U-3A-2 under the Public Utility Holding Company Act of 1935. Rule 17 would specify the circumstances in which nonutility diversification by an intrastate public-utility holding company would not be deemed detrimental to the public interest or the interest of investors or consumers. Amended Rule 2 would provide that a claim of exemption under Rule 2 by an intrastate public-utility holding company, in order to be effective, would require the holding company to meet one of the safe harbor provisions of Rule 17, and amended Form U-3A-2 would require the company to furnish information supporting its ability to rely on one of the safe harbor provisions of Rule 17. For more information, please contact Sidney L. Cimmet at (202) 272-7340.

4. Consideration of an application filed by Merrill Lynch California Municipal Series Trust *et al.* and all similar investment companies to be established, advised, or managed by Merrill Lynch Asset Management, Inc. ("MLAM") or Fund Asset Management, Inc. ("FAMI"), or distributed by Merrill Lynch Funds Distributor, Inc. ("MLFD") ("Funds"); MLAM; FAMI; and MLFD (collectively, "Applicants") for an order of the Commission under Section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicants from Sections 18(f), 18(g), and 18(i) of the Act to the extent necessary to permit the Funds to sell separate classes of securities for the purpose of establishing a dual distribution system, and from the provisions of Sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit assessment of a contingent deferred sales charge on certain redemptions of a class of their securities, and waiver of the contingent deferred sales charge in certain redemptions; and for an order under Section 11(a) approving certain offers of exchange for shareholders of the Funds. For further information, please contact Fran Pollack-Matz at (202) 272-3024.

5. Consideration of whether to repropose for public comment Rule 11a-3 and to seek additional public comment on proposed Rule 11c-1, both under the Investment Company Act of 1940. Revised proposed Rule 11a-3 would allow certain open-end investment companies and their principal underwriters to make certain exchange offers to their own shareholders or to shareholders of another fund in the same group of funds. Proposed Rule 11c-1 would allow unit investment trusts and their sponsors to make certain exchange offers to unitholders of the same trust or to unitholders of another trust having the same sponsor. Consideration will also be given to whether to seek comment on insurance considerations relevant to the question of whether the Commission should propose to amend Rule 11a-2, which permits certain insurance company separate accounts to make offers of exchange. For further information, contact Brian Kindelan at (202) 272-2048.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Martha Peterson at (202) 272-7502.

Jonathan G. Katz,

Secretary.

July 18, 1988.

[FR Doc. 88-16599 Filed 7-19-88; 4:03 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 53, No. 140
Thursday, July 21, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0157 et al.]

Approved Variances for Laser Light Shows; Availability

Correction

In notice document 88-15191 beginning on page 25547 in the issue of Thursday, July 7, 1988, make the following correction:

On page 25547, in the table, under "Demonstration laser product", in the fourth line, "krypton" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0250]

Drug Export; Ornade-A.F.® Spansule® Capsules

Correction

In notice document 88-15334 appearing on page 25691 in the issue of Friday, July 8, 1988, make the following corrections:

1. In the first column, under **SUMMARY**, in the sixth line, "Ornade" and "Spansule" were misspelled.

2. In the second column, in the second complete paragraph, in the third line, "July 8" should read "July 18".

3. In the same column, in the last paragraph, in the next to last line, between "for" and "Evaluation" insert "Drug".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8211]

Income Taxes; Income of Foreign Governments and International Organizations

Correction

In rule document 88-14429 beginning on page 24060 in the issue of Monday, June 27, 1988, make the following corrections:

1. On page 24061, in the first column, in the fifth paragraph, the first line should read "Paragraph (a) of § 1.1441-8T sets forth the ". Also, in the third line, "§ 1.144-1" should read "§ 1.1441-1".

§ 1.892-1T [Corrected]

2. On page 24061, in the third column, in § 1.892-1T(a), in the ninth line, "1.982-3T" should read "1.892-3T".

§ 1.892-2T [Corrected]

3. On page 24061, in the third column, in § 1.892-2T(a)(3), in the third line, "separated" should read "separate".

§ 1.1441-8T [Corrected]

4. On page 24066, in the second column, in § 1.1441-8T(a), in the 10th line, "§ 1441.1" should read "§ 1.1441-1". Also, in § 1.1441-8T(b), in the fourth line from the bottom, "§ 1441-1" should read "§ 1.1441-1".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[INTL-285-88]

Income Taxes; Income of Foreign Governments and International Organizations

Correction

In proposed rule document 88-14428 beginning on page 24100 in the issue of Monday, June 27, 1988, make the following correction:

On page 24101, under **FOR FURTHER INFORMATION CONTACT**, in the seventh line, the telephone number should read "202-566-6384".

BILLING CODE 1505-01-D

federal register

Thursday
July 21, 1988

Part II

Department of Transportation

Office of the Secretary

49 CFR Part 24

Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally Assisted Programs; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 24

[FHWA Docket No. 87-22]
RIN 2125-AB 85

Uniform Relocation Assistance and Real Property Acquisition Regulation for Federal and Federally Assisted Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation implements statutory amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the Uniform Act) made by the Uniform Relocation Act Amendments of 1987, Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, (1987 Amendments) Pub. L. 100–17, 101 Stat. 246–256. The Uniform Act applies to all Federal or federally assisted activities that involve the acquisition of real property or the displacement of persons, including displacements caused by rehabilitation and demolition activities. Consequently, it affects a wide variety of Federal and federally funded programs and projects. This NPRM is the latest in a series of actions that have been taken to ensure that the implementation of the Uniform Act by Federal agencies is, in fact, as uniform and consistent as possible. While encouraging State and local discretion in implementing the Uniform Act's provisions.

DATES: Comments must be received on or before September 19, 1988. Public meetings will be held on August 17, 22, and 24; see Supplementary Information for further details.

ADDRESS: Submit signed, written comments to FHWA Docket No. 87–22, Federal Highway Administration, Room 4232, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. Public meetings will be held in Philadelphia, Pennsylvania; Chicago, Illinois; and Portland, Oregon; see Supplementary Information for further details.

FOR FURTHER INFORMATION CONTACT: Robert J. Moore, Chief, Policy Development, Office of Right-of-Way, HRW–11, (202) 366–0116; or Reid Alsop, Office of the Chief Counsel, HCC–40, (202) 366–1371. The address is Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

A few provisions of the 1987 Amendments upon which the law is explicit and allows for little, if any, administrative discretion or interpretation, and for which a period of public notice and comment would have been impractical, were implemented in an interim final rule in Part 24 issued by FHWA (52 FR 47994) and referenced by all but one of the affected Federal agencies (52 FR 48015) on December 17, 1987. That one agency subsequently referenced Part 24 (53 FR 4964) on February 19, 1988. These agencies are as follows:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Environmental Protection Agency
Federal Emergency Management Agency
General Services Administration
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
National Aeronautics and Space Administration
Pennsylvania Avenue Development Corporation
Tennessee Valley Authority
Department of Transportation
Veterans Administration

In addition, the United States Postal Service issued a Final Rule in 39 CFR Part 777 on December 17, 1987 (52 FR 48029) to amend the Postal Service's regulations to make them consistent with the 1987 Amendments.

This proposed rule, if promulgated, would implement all of the remaining provisions of the 1987 Amendments by amending the existing interim final rule. Following consideration of comments received in response to this notice of proposed rulemaking (NPRM), as well as in response to the interim final rule, we anticipate promulgating a final rule in Part 24 that would replace the interim final rule. For the easy reference of the reader, Part 24 as proposed to be revised herein is printed in its entirety in order to present a complete full text regulation.

As originally enacted, the Uniform Act authorized "the head of each Federal agency" to establish regulations and procedures for implementing the Uniform Act. Inevitably, this led to significant differences in agency implementing regulations. In a March 8, 1978, Report to Congress (GAO Report No. GGD–78–6, "Changes Needed in the Relocation Act to Achieve More Uniform Treatment of Persons Displaced by Federal Programs", B–148044 (1978)), the Comptroller General found that as a result of these differences the Federal government was not providing uniform treatment to people displaced from their homes and businesses by Federal or federally assisted programs. Those differences among Federal implementing regulations also imposed significant administrative burdens on State and local governments.

In 1981, for the Vice President's Presidential Task Force on Regulatory Relief, State and local governments identified the Uniform Act as a good candidate for State and local regulatory relief. Therefore, in May 1982, the Office of Management and Budget (OMB) formed a Uniform Act Interagency Regulatory Review Working Group to develop uniform regulations to be implemented by each agency covered by the Uniform Act. On February 27, 1985, a Presidential Memorandum was signed and published in the **Federal Register** on March 5, 1985 (50 FR 8953), naming the Department of Transportation (DOT) as the agency with lead responsibility for the Uniform Act. The Secretary of the Department of Transportation delegated this responsibility to the Federal Highway Administration. On March 5, 1985 (50 FR 8953), DOT published in the **Federal Register** a model Uniform Act rule, which, in accordance with the President's February 27, 1985 memorandum, served as the basis for a proposed common Uniform Act rule for the 16 other affected agencies (50 FR 8955). The proposed common rule was issued for comment by those 16 agencies on May 28, 1985 (50 FR 21712). After consideration of comments, the disparate regulations of all affected agencies were superseded by the common rule which was published as a final rule on February 27, 1986 (51 FR 7000). This common rulemaking effort, applicable to both direct Federal programs and projects and federally-assisted programs and projects undertaken by State or local agencies, achieved consistency in regulations among the separate Federal agencies.

To a significant extent, this common rulemaking effort presaged many of the statutory changes to the Uniform Act made by the 1987 Amendments. In the administrative area, for example, the

Amendments specifically designate the DOT as lead agency and require it, in coordination with other Federal agencies, to issue rules, establish procedures and make interpretations to implement provisions of the Uniform Act. In the substantive area, with the major exception of payment levels or criteria that were set by statute, the common rulemaking effort granted greater flexibility and discretion to State and local agencies, a theme reiterated in the 1987 Amendments.

Implementation of the 1987 Amendments

On Tuesday, May 19, 1987 (52 FR 18768) the FHWA issued a Notice describing significant changes in the law and general plans to implement those changes. On Tuesday, December 1, 1987 (52 FR 45667) the FHWA issued a Notice of Regulatory Intent giving further notice of the specific regulatory actions that it and the other affected Federal agencies would take to implement the 1987 Amendments.

On December 17, 1987 (52 FR 47994) the FHWA issued an interim final rule in Part 24 that revised the common rule to include those provisions of the 1987 Amendments (primarily increases in the dollar amounts of specific relocation benefits) that did not allow for discretion in their implementation. This was done to allow those Federal, State and local agencies that were willing and able to implement those provisions to do so expeditiously. On the same day (52 FR 48015) 17 Federal Departments and agencies that administer the Uniform Act published interim final rules rescinding the common rule from each of their regulations and adopting in its place a cross-reference to the single governmentwide regulation published by FHWA at 49 CFR Part 24. The effective date for these agency rescissions and cross references varied, however all such actions will take effect on or before April 2, 1989, the date the 1987 Amendments become mandatory.

An eighteenth Federal Department, the Department of Housing and Urban Development (HUD), was unable to join the other Federal agencies in publishing an interim final rescission and cross referencing action on December 17, 1987, because of its need to first satisfy certain Congressional review obligations. HUD subsequently published such an interim rule on February 19, 1988 (53 FR 4964).

While comments were sought on these interim rules, only eight comments were received, seven by FHWA and one by the Department of Housing and Urban Development (HUD). The seven comments received by FHWA did not address either the establishment of a single governmentwide regulation at 49 CFR Part 24, the agency rescission and cross-referencing actions, or the changes made in the interim rule. Rather, they concerned matters that are addressed in this NPRM, and they will therefore be considered, along with the comments received in response to this NPRM, in the development of a final rule. The one comment received by HUD objected to any delay in the effective date of the rescission and cross-referencing action contained in HUD's interim rule. However, the comment did not otherwise object to the rescission and cross-referencing action itself.

Since no comments were received concerning the use of rescission and cross-referencing actions by the various agencies to establish a single governmentwide regulation, the individual agencies will finalize their interim final actions. HUD will consider the comment concerning its interim rule's effective date before its interim rule is finalized.

Accordingly, the changes proposed in this NPRM, if adopted, will govern the relocation and land acquisition programs of all those 18 Federal departments and agencies, as well as the United States Postal Service. Those departments and agencies, and the parts of the Code of Federal Regulations which will contain a cross reference to this part, are listed below:

Department of Agriculture
 7 CFR Part 21
Department of Commerce
 15 CFR Part 11
Department of Defense
 32 CFR Part 259
Department of Education
 34 CFR Part 15
Department of Energy
 10 CFR Part 1039
Environmental Protection Agency
 40 CFR Part 4
Federal Emergency Management Agency
 44 CFR Part 25
General Services Administration
 41 CFR Part 105–51
Department of Health and Human Services
 45 CFR Part 15
Department of Housing and Urban Development
 24 CFR Part 42
Department of the Interior
 41 CFR Part 114–50
Department of Justice
 41 CFR Part 128–18
Department of Labor
 29 CFR Part 12
National Aeronautics and Space Administration
 14 CFR Part 1208
Pennsylvania Avenue Development Corporation
 36 CFR Part 904
Tennessee Valley Authority
 18 CFR Part 1306
Veterans Administration
 38 CFR Part 25

The United States Postal Service will incorporate changes in its full-text regulation at 39 CFR Part 777 and intends to publish its final rule simultaneously with the publication of the final governmentwide rule at 49 CFR Part 24.

All members of the public who are affected by relocation or land acquisition activities undertaken or funded by those departments and agencies are encouraged to comment on this NPRM. Comments from interested State and local governments are particularly requested.

A description of the regulatory changes proposed in this part are set forth below. The only major changes proposed are those required by enactment of the 1987 Amendments. Where no such changes are required, the provisions of the governmentwide rule are generally repeated in this proposed rule. That is, the proposed rule is basically the same as the governmentwide rule with the exception of those changes that are necessary to fully implement the 1987 Amendments. Comments are invited on both those non-discretionary changes that were adopted in the December 17, 1987, interim final rule and the remaining changes proposed in this NPRM.

Public Meetings

In furtherance of the statutory objective of securing the views of State and local governments and the public in the promulgation of these regulations, the Federal Highway Administration proposes to conduct three public meetings during the comment period following publication of this proposed rule. The purpose of these meetings will be to receive comments on the proposed rule from interested parties. These comments will be entered in FHWA Docket No. 87–22 and will be given full consideration prior to issuance of the final rule.

The meetings will be held during the comment period. Dates for the meetings are August 17, 1988 in Philadelphia, Pennsylvania, August 22 in Portland, Oregon and August 24 in Chicago, Illinois. Specific information relative to these meetings will be detailed in a notice soon to be published in the **Federal Register**.

Speakers are invited to make brief presentations of no more than 10 minutes and will be scheduled based on the order of pre-registration and registration at the door. Written comments may also be submitted. Persons wishing to reserve presentation time or seating should contact Ms. Barbara J. Satorius, Realty Specialist, Policy Development Branch, HRW-11, (202) 366-0116, Federal Highway Administration, Washington, DC at least 10 days in advance of the meeting they wish to attend.

The major changes made by the 1987 amendments include:

—Expansion of the Uniform Act coverage to include virtually all activities that receive Federal funds, including those undrtaken by private entities.

—A moderate increase in benefit levels.

—The establishment of a lead agency to issue a single governmentwide implementing regulation.

—Providing that the computation of certain relocation benefits be done in accordance with the lead agency regulations, rather than prescribing the computation method in the statute.

—Granting State greater flexibility and discretion in implementing the provisions of the Uniform Act.

Explanation of the Changes in This NPRM

The changes proposed in this NPRM are described in detail below. (For a description of the nondiscretionary provisions of the 1987 Amendments adopted in the interim final rule the reader is directed to the preamble to that rule at 52 FR 47994, December 17, 1987).

Subpart A—General

Section 24.1 Purpose.

A new paragraph (c) is proposed to replace the current paragraph which refers to changes made by the interim rule. The new paragraph would establish efficient and cost effective implementation as one of the primary purposes of this part. We are particularly concerned that State and local implementing agencies not be burdened with unnecessary regulatory requirements. In this regard such agencies should be fully aware of the waiver provision in § 24.7 and should utilize it when its use could avoid unnecessary delay or administrative burdens.

Section 24.2 Definitions.

Section 24.2(a) contains proposed definitions based on the generic term "agency" which are found in the amended Uniform Act. These proposed definitions relate to particular functions agencies may be performing at a given time in program or project development. These definitions are not mutually exclusive and a single "agency" may be an acquiring agency, a displacing agency and/or a State agency, or all three, at various times during the performance of its Uniform Act activities.

Most significant is the fact that the 1987 Amendments broadened Uniform Act coverage to provide that a "person" who receives Federal financial assistance is now considered to be included within the definitions of acquiring agency, displacing agency, State agency or agency, depending upon the circumstances. It should be noted that, as a result of the 1987 Amendments, the relocation provisions in Title II of the Uniform Act now apply to all "displacing agencies". That term, as it is defined in the 1987 Amendments, includes all private entities that carry out projects with Federal financial assistance that cause people to be displaced whether or not such entities have the power of eminent domain. The real property acquisition policies and procedures in Title III of the Uniform Act, however, now apply to Federal agencies and to "acquiring agencies" that receive Federal financial assistance. Acquiring agencies are all State and private entities that have the power of eminent domain and such State or private entities without the power of eminent domain, to the extent provided in the lead agency regulations. While the term "Agency" is generally used throughout this proposed part, the proposed part reflects these changes in Uniform Act coverage.

In § 24.2(b) the definition of the term "appraisal" would be shifted from Subpart B to this subpart, without change.

Section 24.2(d) contains a new definition of a "comparable replacement dwelling". The proposed definition is based on the new statutory definition of a comparable replacement dwelling and proposes additional information on the meaning of the terms "functionally equivalent" and "financial means" as used in the definition.

Section 24.2(d)(8)(ii) defines the term "financial means" for a person renting a replacement dwelling. (See Subpart E of this preamble).

Section 24.2(d)(8)(iii) proposes financial means criteria for displaced persons not eligible for payments under §§ 24.401 or 24.402 of Subpart E of this part. It is proposed that such persons, because of their short tenure at the displacement dwelling, be required to contribute, to the extent they are able, to any increased costs for affordable comparable replacement housing.

Proposed § 24.2(g) expands and modifies the definition of "displaced person" eligible for the benefits of the Uniform Act. The most significant additions to the definition, which derive from the 1987 amendments, bring persons displaced as a direct result of the rehabilitation or demolition of their dwellings within the coverage of the law.

Section 24.2(g)(2)(iv) would apply primarily to certain residential tenants affected by rehabilitation activities undertaken with financial assistance provided by the Department of Housing and Urban Development (HUD). This section indicates that residential tenants who are not required to move permanently from the building or from a nearby building on the real property as a result of such activities are not to be considered displaced persons within the meaning of the Uniform Act if they are provided with specific protections. These include an offer of a lease for a suitable, decent, safe and sanitary dwelling in the same building (or in a nearby building on the real property) under reasonable terms and conditions of continued occupancy, and reimbursement for out-of-pocket costs associated with any temporary relocation (including moving expenses incurred, and any increased rental and/or utility charges which a tenant is required to pay during the period of the temporary relocation to a decent, safe and sanitary dwelling).

This proposed regulation does not directly address an important issue relating to rehabilitation activities. The expanded definition of "displaced person" added by the 1987 Amendments includes residential tenants displaced as a direct result of assisted rehabilitation activities. Considerable controversy has arisen over the question of whether this definition covers a tenant who need not relocate permanently as a result of the physical alteration of his dwelling or a change in its legal ownership, but whose rent is increased significantly following the completion of rehabilitation activities, resulting in the tenant moving elsewhere.

Relocation assistance is now offered such tenants in some programs administered by HUD, but this is done on the basis of administrative requirements not emanating from the Uniform Act. HUD takes the position that a rental increase which prompts relocation is not a direct result of rehabilitation, as is required for coverage of the Uniform Act, but is an indirect or secondary result of the assisted rehabilitation. While HUD generally agrees that its program regulations should provide for assistance to tenants moving as a result of these rental increases, HUD does not believe that such tenants are covered by the 1987 Amendments. Proposed § 24.2(g)(2)(iv) would not include such tenants within the definition of "displaced person" so long as the other conditions set forth in the section were satisfied.

From 1971 to 1975 HUD regulations implementing the Uniform Act, appearing at 24 CFR Part 42, did contain a provision permitting relocation assistance for those whose rent increased ten percent or more following activities designated "voluntary rehabilitation" under the urban renewal and model cities programs. Such activities under these specified programs were deemed "acquisition" for purposes of establishing eligibility for benefits under the Uniform Act by section 217 of the legislation, which has now been repealed. Nothing in section 217 or elsewhere in the statute addressed this question of rental increases, however. The regulatory provision was included to preserve a policy of the urban renewal program which had been followed since 1965. HUD did not believe that this policy had any basis in the law, and therefore eliminated it from its revised Uniform Act regulations which were published in February, 1975. HUD points out that this policy was not challenged by Congress or in the courts and has remained operative for the last thirteen years. HUD generally supports program regulations which provide relocation assistance to residential tenants that move because of substantial rent increases following rehabilitation, but believes that these regulations must be tailored to each such HUD program, and are not based upon the provisions of the Uniform Act. One effect of this approach would be to limit the uniformity among Federal and federally assisted programs that provide relocation assistance. Such uniformity is a primary goal of the Uniform Relocation Act.

To summarize, the 1987 Amendments alter section 101(6) of the Uniform Act to include as eligible for benefits residential tenants who move as a direct result of rehabilitation. HUD takes the position that Congress did not intend the 1987 Amendments to cover displacement resulting from rent increases that follow rehabilitation since they are the secondary consequence of assisted activities, and that Congress fully understood and recognized the distinction between the "direct" and the "indirect" results of assisted rehabilitation.

A contrary opinion holds that these rental increases are such an integral and foreseeable consequence of assisted rehabilitation activities that displacement resulting from such increases must be considered to be a direct result of rehabilitation.

It also has been suggested that a further condition be added to proposed § 24.2(g)(2)(iv) to provide that so long as the tenant is offered an opportunity to rent an adequate decent, safe, and sanitary dwelling at a rent that is the same as that paid by the tenant before the project, or 30% of the household's gross income, whichever is greater, such tenant would not be considered a displaced person. If the rent for the dwelling offered to the tenant exceeded the greater of those figures, the tenant would then be considered a displaced person.

We invite public comment on this extremely important issue. Also, comment is solicited on any other federally funded activity which may cause a person to be displaced.

Section 24.2(j) proposes to except any interest reduction payment to an individual for the purchase and occupancy of a residence from the definition of Federal financial assistance. This exception is contained in the 1987 Amendments.

Section 24.2(k)(2) proposes to define the action which is the "initiation of negotiations" for displacements caused by rehabilitation, demolition or certain privately undertaken acquisitions, where there is no related acquisition by a Federal or State agency.

Section 24.2(l) is a proposed addition to this section which simply adopts the statutory definition of the term "mortgage".

Section 24.2(m) proposes a definition of the term "nonprofit organization" that would make it clear that this term refers to those organizations that are exempt from income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

Section 24.2(n) proposes to revise the definition of "owner of a replacement dwelling" to include the owner of any dwelling.

Section 24.2(p) includes a new definition of the term "project". The effect of this proposed definition would be to exclude from coverage under this part those actions or activities that result from Federal or federally assisted payments that are made to individuals or families and which are intended primarily to assist or benefit such individual or family.

Section 24.2(r) contains a proposed definition of the term "small business". It is a simple definition chosen for easy application to the eligibility requirements for the business reestablishment payment which was added by the 1987 Amendments. The proposed use of the number of employees (500) at the affected site as the sole criterion for defining a small business precludes an agency from having to delve into the financial affairs of a displaced business in order to qualify it for payments. This definition includes a business which may be considered a chain operation under the fixed payment criteria of § 24.304(a)(3), regardless of the total number of persons employed throughout the entire business enterprise, provided no more than 500 persons are employed at the affected site. Specific comment on the 500 employee threshold for the definition of a "small business" is solicited.

Section 24.2(u) defines the term "uneconomic remnant" and is shifted unchanged from Subpart B to this subpart.

Section 24.2(v) contains a proposed definition of the term "unlawful occupancy". The proposed definition evisions considerable Agency discretion in determining a person's lawful or unlawful occupancy. It discourages the use of trivial technical violations of codes or leases to deny eligibility for Uniform Act benefits due to unlawful occupancy.

Section 24.2(x) is a proposed definition of "utility costs" as they pertain to residential or commercial consumers.

Section 24.2(y) and (z) are proposed definitions of "utility facility" and "utility relocation" for use in the implementation of § 24.307, Subpart D of this part.

Section 24.4 Assurances, monitoring and corrective action.

Section 24.4(a)(2) is a proposed alternative to the retirement that all agencies seeking Federal financial assistance must submit assurances to funding Federal agencies that they will comply with the Uniform Act and this part. The details of the alternative procedure are found at Subpart G of this part.

Section 24.6 Administration of jointly-funded projects.

This section proposes to implement the new statutory mandate requiring the lead agency to designate one Federal agency as the cognizant agency when two or more Federal agencies fund activities in geographic or functionally related areas and when such agencies cannot agree upon which agency's procedures should be followed by the Agency or Agencies carrying out such activities.

Section 24.9 Recordkeeping and reports.

Section 24.9(c) requires that real property acquisition and displacement activities be reported in the format contained in Appendix B of this part. Appendix B proposes the use of a revised report form which has been reformatted, but does not require additional statistical data except for one added entry concerning the new business reestablishment payment. Special consideration and comment on the format and timing of this report is requested.

Section 24.10 Appeals.

Section 24.10(b) contains a proposed modification to accommodate the statutory expansion which allows any issue relating to an aggrieved person's application to be appealed. Because the statute is silent as to what issues should be appealable, it is proposed that any issue affecting a person's eligibility for, or the amount of a payment, including an Agency's failure to grant appropriate waivers in hardship cases could be appealed. This could also include issues involving benefit levels which are subject to Agency discretion.

Subpart B—Real Property Acquisition

Section 24.101(a)(1) would be clarified by including language addressing voluntary transactions. The current language would be removed from Appendix A and changed to eliminate the provisions relating to the location of the property to be acquired; since the essence of a voluntary transaction concerns only the fact that an agency will not acquire the property if an amicable agreement is not reached.

The 1987 Amendments broadened the scope of the real property provisions of the Uniform Act implemented in this subpart to include Federal agencies and acquiring agencies. "Acquiring agency" is defined in the 1987 Amendments to include both State agencies and persons with authority to acquire property by eminent domain; and State agencies or persons without such authority, to the extent provided in the lead agency regulations. (See proposed § 24.2(a)(4)). These regulations propose, in § 24.101(a)(3), to generally exclude a State agency or person without the power of eminent domain from the requirements of this subpart, but to require that such agency or person (1) clearly advise any property owner, prior to making an offer, that it is unable to acquire the property except through amicable negotiations, and (2) advise the owner of what it believes to be the fair market value of the property, based on an appraisal. Comments are specifically requested on this aspect of the proposed requirements pertaining to an "acquiring agency," particularly with respect to whether these two conditions are adequate to protect persons whose property is purchased by such State agencies or persons acting without eminent domain authority.

Accordingly, it is proposed that this subpart apply to all programs or projects receiving Federal financial assistance, except where (1) the acquisition can be classified as a voluntary transaction, (2) the property to be acquired is in government ownership and cannot be taken by eminent domain, or (3) an Agency or person is acquiring real property with Federal financial assistance, but without the power of eminent domain. However, such agency or person would be required to ensure that an owner is advised of the value of the property, except as provided in § 24.102(c)(2).

Section 24.102(c) proposes to implement the 1987 Amendments which permits waiver of appraisals. An appraisal would not be required by this subpart where the owner is donating the property and releases the acquiring agency from the appraisal obligation. Also it is proposed to permit an acquiring agency to determine that an appraisal is not necessary because the valuation problem is uncomplicated and the estimated fair market value is $2,500 or less. Such determination could be made where the property is being donated or where the owner is to receive compensation. This proposal is not intended to preclude any acquiring agency from preparing an appraisal whenever it is deemed prudent to do so. The $2,500 amount is being proposed because it is consistent with § 24.103(e). Specific comment on the $2,500 amount is requested.

Section 24.102(k) proposes to shift the definition of "uneconomic remnant" to § 24.2(u), Subpart A. The definition is proposed to be revised slightly to conform to the statutory definition, but no difference in meaning is intended.

Section 24.103 proposes to shift the definition of "appraisal" to § 24.2(b), Subpart A, without change. In addition, the term "detailed' would be added before "appraisal" in § 24.103(a). This is considered to be an editorial change only. These changes would also require some paragraph relettering in this section.

Section 24.108 proposes revised language to conform to the new statutory language. This revision is considered to be editorial and no change in meaning is intended.

Subpart C—General Relocation Requirements

Section 24.204(c)(2) proposes to add payment of utility costs to increased rental costs incurred by persons required to temporarily relocate. This change is consistent with the overall revised policy regarding inclusion of utility costs as part of the monthy housing costs for displaced tenants.

Section 24.205(a) proposes to implement the new statutory requirement for relocation planning in the early stages of program or project development. Included in this proposed section is a suggested outline of the information considered to be essential to meaningful relocation planning. The Congress views effective relocation planning as essential for successful completion of any program or project which displaces persons and this proposed section is designed to reflect that view. Most displacing agencies are well aware of the program or project benefits which can be derived through early and sound relocation planning and many agencies currently use comprehensive planning techniques in project development. We do not, however, view relocation planning as a complicated, time consuming activity. Relocation planning is seen as a process which provides meaningful information to program or project decision makers and it need not result in a detailed document which contains unnecessary data and needless problem solving. Instead, it should be a process which is scoped to the complexity and nature of anticipated program or project relocation activity and should not require a burdensome commitment of Agency resources.

Proposed § 24.205(b) addresses the issue of loans for planning and preliminary expenses under section 215 of the Uniform Act. While the provision in section 215 for certain seed money loans remains a part of the Federal statute, it is not known to have ever been used, despite the existence of detailed implementing regulations in 24 CFR Part 43. Those regulations will be removed and rescinded on April 2, 1989 (53 FR 4964). The reason for the non-use of section 215 is that it provides project funding for purposes for which project funding is already available under other sections of the Act. For this reason it is not considered appropriate to propose further regulations to implement this provision until such time as there is a demonstrated need to do so.

Section 24.205(c)(2)(vi) proposes to add to the list of persons eligible for advisory services those persons who occupy an acquired property on a short term rental basis by agreement with the Agency. This class of eligible persons was created by the 1987 Amendments.

Section 24.208 proposes to implement the new statutory change which will enable an Agency to take relocation assistance payments into account when determining a low-income person's eligibility for housing assistance.

For editorial purposes, several references in this subpart to other sections in this part have been changed and minor language clarifications have been made.

Subpart D—Payments for Moving and Related Expenses

Section 24.302 proposes a $50 limitation for fixed residential moving payments to persons who are eligible for payment under the moving expense and dislocation allowance schedule, but who would incur little or no expense in moving their personal property. Special consideration and comment on this limitation is solicited.

Sections 24.304 (a), (c) and (d) propose to add the business reestablishment expense as an expense item which a business must forego when it elects a fixed payment in lieu of the payments for moving and related expenses. This payment, not to exceed $10,000, was added by the 1987 Amendments and is further described in proposed § 24.306. The amended statute also provides that criteria for the fixed payment be established in this part.

Sections 24.304(a) (1), (3) and (4) contain new proposed criteria for eligibility for the nonresidential fixed payment. Under these proposals a business must (1) own or rent personal property which must be moved and the business itself must vacate the displacement site, (2) the business cannot be part of an enterprise having more than three other entities not being displaced. (This is to correct inequities and hardship frequently suffered by small "chains" where the displaced entity may be its owner's primary source of income), and (3) the business may not be operated solely for the purpose of renting a dwelling to others. (This implements the new statutory exclusion of such business from eligibility for the fixed payment). Sections 24.304(a) (2) and (5) propose to retain two of the eligibility criteria previously contained in the Uniform Act relating to loss of patronage and material contribution to a person's income.

Section 24.304(d) proposes to establish a standard $2,500 fixed payment for eligible nonprofit organizations. This recognizes that, while a nonprofit organization may not have taxable income, it can suffer substantial reductions in revenue due to displacement. For this same reason it is proposed that the condition currently in § 24.304(a)(3) that the organization not be part of an enterprise having more than one establishment be eliminated.

Section 24.306 contains the proposed provisions for implementation of the new business reestablishment expenses benefit authorized by the 1987 Amendments. This is a payment intended to assist a small business, farm or nonprofit organization to continue its operation at a new location, under conditions not less favorable than those prevailing prior to displacement. This proposed section contains non-exclusive listings of eligible and ineligible expenses for which reestablishment payments may be made. Although the statute imposes a $10,000 maximum total amount for this payment, regulatory maximums are proposed for three eligible items. These are for (1) exterior signing to advertise the business, (2) advertisement of replacement location, and most importantly, (3) increased costs of operation at the replacement site. In order to minimize the effect of this payment on the replacement site selection process, particularly in influencing the selection of a far superior replacement site, the amount of the business reestablishment payment which may be applied to expenses for increased costs of operation is limited to $5,000 over a two year period. It is not considered appropriate that substantial up-grading of business locations or facilities be made solely because public funds may be available for such up-grading. Any enhancements must be reasonable and necessary. The alternative to a monetary cap on costs for up-grading would be to impose a requirement that displacing agencies use a formal comparability process to set limits on expenditures for obviously superior replacement sites. This would, in turn, create additional administrative responsibilities for the displacing agency. Section 24.306(a)(13) proposes that a waiver of the regulatory maximum for this eligible item may be permitted in cases where up-grading cannot be avoided.

Section 24.307 contains proposed implementation requirements for the discretionary reimbursement of expenses incurred by owners of utility facilities which are displaced from publicly owned property by federally funded programs or projects. The authority for such reimbursement is embodied in the 1987 Amendments. This proposed section defines and provides for payment of "extraordinary expenses" incurred by displaced utility facilities. It also proposes eligibility criteria and guidance, in Appendix A, as to how agreement may be reached between the Agency and the utility facility owner on such items as scope of work, betterments, manner of disbursement and amounts of payment.

Subpart E—Replacement Housing Payments

Section 24.401 Replacement housing payment for 180-day homeowner-occupants.

In § 24.401(a)(2) a new provision is proposed which would permit a displacing Agency to extend, for good cause, the one-year period during which a displaced homeowner occupant has to purchase and occupy a decent, safe, and sanitary dwelling. This authority is contained in the 1987 Amendments.

In § 24.401(b)(2) a slight change in the wording is proposed to complement the major language changes that would be made in § 24.401(d).

In § 24.401(d) the use of the "annuity" formula for determining the amount to be paid to a displaced homeowner-occupant for increased mortgage interest costs would be eliminated. This method, formerly required by statute, has been a source of numerous windfall and unwarranted payments during past periods of inflation and high mortgage interest rates. For this reason it is proposed that the "annuity" method no longer be used. Instead, a more reasonable and equitable "buydown" approach to payment computation for increased mortgage interest costs is proposed. This method, which previously could only be used for last resort housing cases, was offered as an optional procedure in the interim final rule published by DOT on December 17, 1987. We now propose making the exclusive use of this payment computation method mandatory.

As a special note, the lead agency is giving serious consideration to an alternative approach to compensation for increased mortgage interest costs. This alternative would be a new simplified procedure for the computation and disbursal of this payment. The simplified procedure is based on a recognition that favorable financing is considered to be a valuable attribute, the loss of which should require a relocation payment to its owner. For this reason, it would be proposed that the displacing agency not impose restrictions upon the disposition of the proceeds that provide compensation for such loss. Therefore, the displacing agency would no longer be required to examine the financial arrangements which the displaced homeowner makes for the purchase of a replacement dwelling in order to determine the amount of the increased mortgage interest payment. The payment determination would be made using a method designed to make it possible for the displaced homeowner to replicate the repayment terms of the existing mortgage(s) on the displacement dwelling, as to both the remaining term of the mortgage(s) and the amount of the monthly payments for principal and interest.

Further, the simplified procedure would permit the payments to be made at a time in the relocation process when it could readily be applied to the downpayment on the replacement dwelling, thereby reducing the balance to be financed and lowering the required monthly payments for such financing. If the displaced homeowner wishes to buy his future mortgage down to an even lower amount with his own funds, even to zero, that is certainly the owner's prerogative and the displacing agency need not follow up to ascertain the terms for the purchase of the replacement dwelling, except in those cases were incidental costs will be claimed by the displaced homeowner.

It is believed that the simplified procedure would accomplish two desirable objectives. First, it would provide a payment to the displaced homeowner at a time when such payment could actually be used for its intended purpose, i.e., applied toward the purchase price of the replacement dwelling, thereby offsetting the impact of any higher new interest rate on the monthly mortgage payment. Too often in the past, the mortgage interest differential payment was not computed until a replacement mortgage had been secured because the computation was based on the amount of the new mortgage. Therefore, when the payment was finally made to the displaced homeowner it was too late to apply the payment amount to the new mortgage in any way that would reduce the monthly mortgage payment amount. Secondly, the use of the simplified "buydown" procedure would significantly reduce the displacing agency's administrative burden of having to follow through and examine the financial term for every displaced homeowner's replacement dwelling. It would also reduce paperwork burdens imposed on displaced homeowners. Careful consideration and comment on this possible alternative to the "buydown" procedure contained in § 24.401(d) of this subpart is requested.

Section 24.402 Replacement housing payment for 90-day occupants.

It is proposed that § 24.402(b) be substantially revised to meet the new statutory requirement that a low income person's income be taken into consideration when calculating rental assistance payments for comparable replacement housing. To reflect the requirement that income be taken into consideration in the fairest, yet simplest manner, it is proposed that this section depart entirely from the current "make-whole" approach for 90-day occupants and return to a former commonly used base monthly housing cost/monthly income formula for payment determination. It is proposed that an amount representing 30% of average monthly gross household income be used to compute a displaced person's replacement housing payment if the 30% figure is less than the rent actually paid at the displacement dwelling. The 30% figure is proposed as a reasonable percentage of income to be applied to rental housing costs under current market and economic conditions, and is consistent with the percentage of income figures currently being used in other subsidized housing and related programs. Further, the 30% of income test would be applied equally to all 90-day occupants regardless of income. This would assure consideration of income for all low income persons; and, at the same time, eliminate inequities for tenants with marginal incomes which might barely exceed criteria established under other methods for defining low income persons. Finally, because utility expenses are considered to be an integral part of monthly housing costs, it is proposed that these expenses be included in the monthly base housing cost computation.

It is proposed that § 24.402(c) be slightly revised to clarify the new statutory limitations on the amount of downpayment assistance a 90-day occupant may receive and the new agency discretion for modifying those amounts. Specific comment is requested on the issue of special criteria for use in the exercise of Agency discretion under this section. Suggestions are solicited for methods of promoting uniformity and equity in this process.

Section 24.403 Additional rules governing replacement housing payments.

Because it is proposed that Subpart G, Last Resort Housing, be reformatted and redesignated as § 24.404, § 24.403(b) has been deleted and the balance of § 24.403 has been re-numbered accordingly.

Section 24.404. Replacement housing of last resort.

It is proposed that Subpart G, Last Resort Housing be reformatted and redesignated as § 24.404 in order to emphasize that housing of last resort is not an independent program, but is merely an extension of the replacement housing function. This simply means that, with few exceptions, the same basic eligibility criteria, payment computation methods, and displaced person protections apply equally to all persons eligible for replacement housing. Therefore, it was felt that the proposed melding of the two functions into one subpart might help dispel a common misconception that persons receiving payments under Section 206 of the Uniform Act are separate and distinct from those receiving payments under sections 203 and 204 of the Act, each having rights and entitlements that are different and exclusive.

In addition to the proposed shift to the new subpart, the last resort housing procedures would be revised to reflect a change in section 206(a) of the Uniform Act, as required by the 1987 Amendments. As amended, section 206(a) now specifically authorizes payments in excess of the maximum amounts payable under sections 203 and 204, on a case-by-case basis for good cause. Sections 24.404(a)(1) of this subpart proposes the elements which must be considered in determining "case-by-case for good cause." These elements would all be subject to a fundamental analysis and correlation of the housing needs of persons to be displaced, with the availability of appropriate housing resources to meet those needs, both within the monetary limits for owners and tenants under this subpart and within acceptable time constraints as dictated by project or program need. Failure of any or all of these elements to properly correlate would constitute "case-by-case for good cause" justification for authorizing replacement housing payments in excess of the normal prescribed limits.

Other minor revisions are proposed in the last resort housing section of this subpart. One deals with possible variations from precise comparability, under limited circumstances; another would permit consideration of financial means, in special cases; but most are technical or editorial language changes for purposes of clarification.

Subpart F—Mobile Homes

Section 24.502 is proposed to be modified and simplified to apply only to the moving of the mobile home dwelling itself. It is considered that other moving expenses incurred by the occupant of the mobile home are adequately covered by § 24.501.

This subpart also contains some minor editorial alterations.

Subpart G—Certification

This subpart proposes implementation of the new process created by the 1987 Amendments whereby the head of a Federal agency may discharge his-her responsibilities under the Uniform Act by accepting a certification by a State agency that it shall accept such responsibility and that it shall conduct its Uniform Act activities in accordance with a State law and regulations which serves the same purpose and effect as the Uniform Act. The subpart proposes a multi-step procedure for the certification process. As part of that process, a major role would be played by the State governor or such person or agency as the governor designates. The certification process is proposed to proceed in the following manner:

1. If a State agency determines that it desires to operate under certified State law and regulations, it may submit a request for certification approval to the governor or State contact designated by the governor.

2. The designated contact shall review the request and determine the adequacy of the applicable State law and regulations and of the State agency's staffing. If the designated State contact approves the request, it shall forward the request to the Federal funding agency.

3. The Federal funding agency shall forward all complete requests to the Federal lead agency, along with its assessment of the State agency's capabilities.

4. The Federal lead agency shall review the material received, solicit comments from the public and local governments, and then make a determination concerning the State agency's ability to satisfy Uniform Act responsibilities under the State law.

Certification is a new concept for Uniform Act activities. For this reason, special attention and consideration of the proposed process is invited. We are particularly interested in ideas and suggestions as to how this concept might best be implemented at the State and Federal levels, as well as alternative proposals for the sequencing of the certification process.

Appendix A—Additional Information

Proposed modification of the appendix includes the shifting of several portions of the appendix to the subparts to which they pertain. Discussions relative to these changes are found in the preambles for the appropriate subparts.

Section 24.401 Replacement housing payment for 180-day homeowner-occupants.

Explanatory information has been added to this section of the appendix relative to the adjustments required for the "buydown" increased mortgage interest cost payment when a person secures a mortgage on the replacement dwelling which is of a lesser amount than the remaining balance of the mortgages on the displacement dwelling.

Appendix B—Statistical Report Form

The instructions for completing the form propose to include a line item for reporting payments for the new statutory business reestablishment expense entitlement and the report form has been reformatted.

Regulatory Impact

The FHWA has determined that this action does not constitute a major proposed rule under Executive Order 12291 or a significant proposal under the regulatory policies and procedures of the Department of Transportation. Executive Order 12291 requires that a regulatory impact analysis be prepared for "major" rules which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or has certain other specified effects.

The economic impacts of this proposed rulemaking are primarily mandated by the provisions of the 1987 Amendments. Therefore, a full regulatory evaluation has not been prepared. However, since some of the statutory changes are administrative or procedural, savings to Federal, State, and local agencies should result in the administration of the Uniform Act. Other statutory changes, which alter benefit levels, and expand the Act's application to include certain private persons who receive Federal financial assistance, and persons displaced by certain nonacquisition activitities, should result in a modest increase in amounts paid under the Uniform Act.

However, we do not believe that the proposed regulations will have an annual economic effect of $100 million or more, or the other effects listed in the Executive Order. For this reason, we have determined that these proposed regulations are not a major rule within the meaning of the Order.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that for each rule with a "significant economic impact on a substantial number of small entities" an analysis be prepared describing the rules impact on small entities, and identifying any significant alternatives to the rule that would minimize the economic impacts on small entities.

The provisions of the Uniform Act that are implemented in this proposed rule have not changed substantially. The primary impact of the 1987 Amendments is expected to be an increase in benefits provided to small businesses, the elimination of unnecessary administrative requirements imposed on State and local agencies, and the consequent reduction of burden on those affected entities, and the expansion of the Act's application to those private entities that seek and receive Federal financial assistance.

Based on information available to FHWA at this time and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Requirements

Today's proposed rule would make one change to the Uniform Act Report form, which is contained in Appendix B of Part 24. A new item, 7A, would be added to obtain information relating to the new business reestablishment payment added by the 1987 Amendments. Several minor editorial changes would also be made in this form. If these proposed changes are adopted, the revised form will be submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h), the Paperwork Reduction Act, Pub. L. 96–511.

Federalism Assessment

As discussed in the Supplementary Information sections of this preamble, this proposed rule builds upon the positive Federalism accomplishments achieved in the promulgation of the governmentwide common rule on February 27, 1986 (51 FR 7000) which significantly reduced administrative burdens on States and local recipients of

Federal financial assistance. The FHWA has determined that the Federalism accomplishments of the common rule are retained in today's rule and any proposed changes are fully consistent with the principles and criteria contained in Executive Order 12612 and do not have sufficient further Federalism implications to warrant the preparation of a complete Federalism Assessment.

This proposed rule implements a provision of the 1987 Amendments that gives substantial additional discretion to the States. This is the certification procedure which provides an alternative whereby State agencies, with adequate authority under State law, can comply with the Uniform Act with a minimum amount of Federal supervision or oversight. As proposed, this certification procedure would give maximum authority and control to the State governor, or his or her designee, in managing and coordinating the certification procedure in each State.

List of Subjects in 49 CFR Part 24

Real property acquisition, Relocation assistance, Reporting and recordkeeping requirements, Transportation.

Issued on: July 15, 1988.

Robert E. Farris,

Federal Highway Administrator.

It is proposed to amend Title 24 of the Code of Federal Regulations by revising Part 24 to read as follows:

PART 24—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Authority: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note); and 49 CFR 1.48 (dd).

Subpart A—General

§ 24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs; and

(b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

(c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

§ 24.2 Definitions.

(a) *Agency.* The term "Agency" means the Federal agency, State, State agency, or person that acquires the real property or displaces a person.

(1) *Federal agency.* The term "Federal agency" means any department, Agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(2) *State agency.* The term "State agency" means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(3) *Lead agency.* The term "lead agency" means the Department of Transportation acting through the Federal Highway Administration.

(4) *Acquiring agency.* The term "acquiring agency" means a State agency, as defined in paragraph (a)(2) of this section, which has the authority to acquire property by eminent domain under State law, and a State agency or person which does not have such

authority, unless any such Agency or person is acquiring property pursuant to the provisions of § 24.101(a)(1), (2) or (3).

(5) *Displacing agency.* The term "displacing agency" means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(b) *Appraisal.* The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(c) *Business.* The term "business" means any lawful activity, except a farm operation, that is conducted:

(1) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Primarily for the sale of services to the public; or

(3) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(4) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(d) *Comparable replacement dwelling.* The term "comparable replacement dwelling" means a dwelling which is:

(1) Decent, safe and sanitary as described in paragraph (f) of this section;

(2) Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling. (See Appendix A of this part);

(3) Adequate in size to accommodate the occupants;

(4) In an area not subject to unreasonable adverse environmental conditions;

(5) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(6) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also § 24.403(a)(2).);

(7) Currently available to the displaced person on the private market. However, a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance. (See Appendix A of this part.); and

(8) Within the financial means of the displaced person.

(i) A replacement dwelling purchased by a homeowner in occupancy for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner is paid the full price differential as described in § 24.401(c), all increased mortgage interest costs as described at § 24.401(d) and all incidental expenses as described at § 24.401(e), plus any additional amount required to be paid under Subpart E of this part, last resort housing.

(ii) A replacement dwelling rented by a displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at § 24.402(b)(2).

(iii) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income. Such rental assistance must be paid under last resort housing provisions in Subpart E of this Part for a period of 42 months.

(e) *Contribute materially.* The term "contribute materially" means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(1) Had average annual gross receipts of at least $5000; or

(2) Had average annual net earnings of at least $1000; or

(3) Contributed at least 33⅓ percent of the owner's or operator's average annual gross income from all sources.

(4) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(f) *Decent, safe and sanitary dwelling.* The term "decent, safe and sanitary dwelling means a dwelling which meets applicable housing and occupancy codes. However, any of the following standards which are not met by an applicable code shall apply unless waived for good cause by the Federal agency funding the project. The dwelling shall:

(1) Be structurally sound, weathertight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other devices.

(3) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climate conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and living space needed to accommodate the displaced person. There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator.

(5) Contains unobstructed egress to safe, open space at ground level. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.

(6) For a displaced person who is handicapped, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

(g) *Displaced person.* (1) *General.* The term "displaced person" means any person who moves from the real property or moves his or her personal property from the real property:

(i) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project. This includes a person who does not meet the length of occupancy requirements of section 203 or 204 of the Uniform Act.

(ii) As a direct result of rehabilitation or demolition for a project; or

(iii) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

(2) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(i) A person who moves before the initiation of negotiations (see also § 24.403(e)), unless the Agency determines that the person was displaced as a direct result of the program or the project;

(ii) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(iii) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(iv) A tenant-occupant of a dwelling who has been notified on a timely basis that he or she will not be displaced by the project, provided that:

(A) The tenant is offered a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building or nearby building on the real property;

(B) The terms and conditions of continued occupancy are reasonable and set forth in a lease which is offered to the tenant; and

(C) If the tenant is required to relocate temporarily, the conditions of the temporary relocation shall be reasonable; the tenant shall be reimbursed for the actual out-of-pocket expenses incurred in connection with the temporary relocation, including moving costs and any increased rent/utility costs; and the temporarily occupied dwelling shall be decent, safe and sanitary.

(v) An owner-occupant who moves as a result of an acquisition that is not subject to the requirements of Subpart B of this part or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(vi) A person who the Agency determines is not displaced as a direct result of a partial acquisition;

(vii) A person who, after receiving a notice of relocation eligibility (described at § 24.203(b)), is notified in writing that he or she will not be displaced for a project. Such notice shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

(viii) An owner-occupant who voluntarily sells his or her property, as described at § 24.101(a) (1) or (3), after being informed in writing that if a mutually satisfactory agreement of sale cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(ix) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(x) A person who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of Interior under Pub. L. 93–477 or Pub. L. 93–303; or

(xi) A person who is determined to be in unlawful occupancy (see paragraph (v) of this section) or a person who has been evicted for cause, under applicable law, prior to the initiation of negotiations for the property.

(h) *Dwelling.* The term "dwelling" means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(i) *Farm operation.* The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(j) *Federal financial assistance.* The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(k) *Initiation of negotiations.* Unless a different action is specified in applicable Federal program regulations, the term "initiation of negotiations" means the following:

(1) Whenever the displacement results from acquisition of the real property by a Federal agency or State agency, the "initiation of negotiations" means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal agency or State agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the "initiation of negotiations" means the actual move of the person from the property.

(2) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal agency or a State agency), the "initiation of negotiations" means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(3) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96–510, or "Superfund") the "initiation of negotiations" means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(l) *Mortgage.* The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(m) *Nonprofit organization.* The term "nonprofit organization" means an organization that is exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(n) *Owner of a dwelling.* A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property;

(1) Fee title, a life estate, a 99-year lease, or a lease including any options for extention with at least 50 years to run from the date of acquisition; or

(2) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in paragraphs (n) (1) or (2) of this section, or

(4) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(o) *Person.* The term "person" means any individual, family, partnership, corporation, or association.

(p) *Project.* The term "project" means any action or series of actions undertaken by a Federal agency or with Federal financial assistance that are designed primarily to further or complete an activity or program that will benefit the public as a whole. It does not include an action or series of actions undertaken by an individual or family with Federal financial assistance if such assistance is intended primarily to assist or benefit such individual or family.

(q) *Salvage value.* The term "salvage value" means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.

(r) *Small business.* A business having not more than 500 employees working at the site being acquired or permanently displaced by a program or project.

(s) *State.* Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands or a political subdivision of any of these jurisdictions.

(t) *Tenant.* The term "tenant" means a person who has the temporary use and occupancy of real property owned by another.

(u) *Uneconomic remnant.* The term "uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the acquiring agency has determined has little or no value or utility to the owner.

(v) *Unlawful occupancy.* A person is considered to be in unlawful occupancy when such person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations for the acquisition of the occupied property. At the discretion of the displacing agency, squatters who occupy real property without the permission of the owner may be considered to be in unlawful occupancy. Technical violations of law and unlitigated violations of the terms of a lease, such as having an unauthorized pet or withholding rent because of improper building maintenance, do not render a person's occupancy unlawful for purposes of this section.

(w) *Uniform Act.* The term "Uniform Act" means the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 *et seq.*; Pub. L. 91–646), and amendments thereto.

(x) *Utility costs.* The term "utility costs" means expenses for heat, lights, water and sewer.

(y) *Utility facility.* The term "utility facility" means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(z) *Utility relocation.* The term "utility relocation" means the adjustment of a utility facility required by the program or project undertaken by the displacing agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequency of project construction.

§ 24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, or local law which is determined by the Agency to have the same purpose and effect as such payment under this part. (See Appendix A of this part, § 24.3.)

§ 24.4 Assurances, monitoring and corrective action.

(a) *Assurances.* (1) Before a Federal agency may approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing agency's assurances shall be in accordance with Section 210 of the Uniform Act. An acquiring agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to Sections 301 or 302 of the Uniform Act. If, in the judgment of the Federal agency, Uniform Act compliance will be served, a State agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency which both acquires real property and displaces persons may combine its section 210 and section 305 assurances in one document.

(2) If a Federal agency or State agency provides Federal financial assistance to a "person" causing displacement, such Federal or State agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal agency may provide Federal financial assistance to a State agency after it has accepted a certification by such State agency in accordance with the requirements in Subpart G of this part.

(b) *Monitoring and corrective action.* The Federal agency will monitor compliance with this part, and the State agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal agency may also apply sanctions in accordance with applicable program regulations. (Also see § 24.603, Subpart G.)

(c) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

§ 24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

§ 24.6 Administration of jointly-funded projects.

Whenever two or more Federal agencies provide financial assistance to an Agency or Agencies, other than a Federal agency, to carry out functionally or geographically related activities which will result in the acquisition of property or the displacement of a person, the Federal agencies may by agreement designate one such agency as the cognizant Federal agency. In the unlikely event that agreement among the Agencies cannot be reached as to which agency shall be the cognizant Federal agency, then the lead agency shall designate one of such agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federallly assisted activities under the agreement shall be deemed a project for the purposes of this part.

§ 24.7 Federal agency waiver of regulations.

The Federal agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

§ 24.8 Compliance with other laws and regulations.

The implementation of this part shall be in compliance with all applicable laws and implementing regulations, including the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 *et seq.*).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*).

(f) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(g) Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12259.

(h) Executive Order 11246—Equal Employment Opportunity.

(i) Executive Order 11625—Minority Business Enterprise.

(j) Executive Order 12259—Leadership and Coordination of Fair Housing in Federal Programs.

(k) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(l) Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands.

(m) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*).

§ 24.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding agency shows good cause. The report shall be prepared and submitted in the format contained in Appendix B of this part.

§ 24.10 Appeals.

(a) *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under § 24.106 or § 24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Subpart B—Real Property Acquisition

§ 24.101 Applicability of acquisition requirements.

(a) *General.* The requirements of this subpart apply to any acquisition of real property for a Federal project, and to projects where there is Federal financial assistance in any part of project costs except for:

(1) Voluntary transactions when the acquiring agency has the power of eminent domain, but it will not acquire the property in the event negotiations

fail to result in an amicable agreement, and the owner is so informed in writing.

(2) The acquisition of real property from a Federal agency, State, or State agency, if the acquiring agency does not have the authority to acquire the property through condemnation.

(3) Projects or programs undertaken by an acquiring agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and

(ii) Inform the owner of what it believes to be fair market value of the property, based on an appraisal.

(b) *Less-than-full-fee interest in real property.* In addition to fee simple title, the requirements of this subpart apply to the acquisition of fee title, subject to a life estate or a life use, to aquisition by leasing where the lease term, including option(s) for extension, is 50 years or more, and to the acquisition of permanent easements. (See Appendix A of this part, § 24.101(b).)

(c) *Federally-assisted projects.* For projects receiving Federal financial assistance the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the extent practicable under State law. (See § 24.4(a).)

§ 24.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections, including the Agency's obligation to secure an appraisal, provided to the owner by law and this part. (See also § 24.203.)

(c) *Appraisal, waiver thereof, and invitation to owner.*

(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.101(c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if the owner is donating the property and releases the Agency from this obligation, or the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at $2,500 or less, based on a review of available data.

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. (See also § 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are considered to be part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.

(f) *Basic negotiation procedures.* The Agency shall make reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation; and, explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with § 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation.

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems) supports such a settlement.

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2(u).)

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.

§ 24.103 Criteria for appraisals.

(a) *Standards of appraisal.* The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, a detailed appraisal shall contain the following items:

(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.

(2) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(3) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach. If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.

(4) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(5) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property.

(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* To the extent permitted under applicable law, the appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner.

(c) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(q)) of the retained improvement.

(d) *Qualifications of appraisers.* The Agency shall establish criteria for determining the minimum qualifications of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, including review appraisers, and utilize only those determined to be qualified.

(e) *Conflict of interest.* No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is $2,500, or less.

§ 24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.

(b) If the reviewing appraiser is unable to approve or recommend approval of an appraisal as an adequate basis for the establishment of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may develop appraisal documentation in accordance with § 24.103 to support an approved or recommended value.

(c) The review appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval. Any damages or benefits to any remaining property shall also be identified in the statement.

§ 24.105 Acquisition of tenant-owned improvements.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this Subpart.

(c) *Appraisal and establishment of just compensation for tenant-owned improvements.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(q).)

(d) *Special conditions.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement; and

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative compensation.* Nothing in this Subpart shall be construed to deprive the tenant-owner of any right to reject payment under this Subpart and to obtain payment for such property interests in accordance with other applicable law.

§ 24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

§ 24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; or

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

§ 24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefor, to the Agency as such owner shall determine. The Agency is responsible for assuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).

Subpart C—General Relocation Requirements

§ 24.201 Purpose.

This Subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

§ 24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at § 24.2(g).

§ 24.203 Relocation notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).

(2) Informs the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the person successfully relocate.

(3) Informs the person that he or she will not be required to move without at least 90 days' advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available.

(4) Describes the person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of initiation of negotiations (defined in § 24.2(k)) for the occupied property. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) *Ninety-day notice.*

(1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing agency may issue the notice 90 days before it expects the person to be displaced or earlier.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (See § 24.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the displacing agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

§ 24.204 Availability of comparable replacement dwelling before displacement.

(a) *General.* No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 24.2(d)) has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location; and

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a

substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person is required to relocate for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling; and

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily-occupied dwelling.)

§ 24.205 Relocation planning, advisory services, and coordination.

(a) *Relocation planning.* During the early stages of development, Federal and Federal-aid programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should include an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that may be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, consideration of last resort housing actions should be instituted.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies.

(b) *Loans for planning and preliminary expenses.* In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the lead agency will establish criteria and procedures for such use upon the request of the Federal agency funding the program or project.

(c) *Relocation assistance advisory services.* (1) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.

(ii) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in § 24.204(a).

(A) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see § 24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(B) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See § 24.2 (d) and (f).) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(C) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling.

(D) All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

(iii) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable and suitable commerical and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(vi) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

(d) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (Also see § 24.6, Subpart A.)

§ 24.206 Eviction for cause.

Eviction for cause must conform to applicable State and local law. Any person who has lawfully occupied the real property, but who is later evicted for cause on or after the date of the initiation of negotiations, retains the right to the relocation payments and other assistance set forth in this part. For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves or the date a comparable replacement dwelling is made available, whichever is later. This section applies only if the Agency had intended to displace the person.

§ 24.207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advance payments.* If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a harship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* (1) All claims for a relocation payment shall be filed with the Agency within 18 months after:

(i) For tenants, the date of displacement;

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) This time period shall be waived by the Agency for good cause.

(e) *Multiple occupants of one displacement dwelling.* If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(f) *Deductions from relocation payments.* An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. Similarly, a Federal agency shall, and a State agency may, deduct from relocation payments any rent that the displaced person owes the Agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining a comparable replacement dwelling as required by § 24.204. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(g) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

§ 24.208 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law, except for any Federal law providing low-income housing assistance.

Subpart D—Payments for Moving and Related Expenses

§ 24.301 Payment for actual reasonable moving and related expenses—residential moves.

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined at § 24.2(g)) is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(a) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(b) Packing, crating, unpacking, and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.

(d) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(e) Insurance for the replacement value of the property in connection with the move and necessary storage.

(f) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(g) Other moving-related expenses that are not listed as ineligible under § 24.305, as the Agency determines to be reasonable and necessary.

§ 24.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under § 24.301. This allowance shall be determined according to the applicable schedule approved by the Federal Highway Administration, except that the expense and dislocation allowance to a person occupying a furnished one-room unit shared by more than one other person, or a person whose residential move is performed by an Agency at no cost to the person, shall be limited to $50.

§ 24.303 Payment for actual reasonable moving and related expenses—nonresidential moves.

(a) *Eligible costs.* Any business or farm operation which qualifies as a displaced person (defined at § 24.2(g)) is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

(1) Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property describe at § 24.303(a)(12. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to

adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(6) Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

(7) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(8) Professional services necessary for:

(i) Planning the move of the personal property,

(ii) Moving the personal property, and

(iii) Installing the relocated personal property at the replacement location.

(9) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(10) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

(ii) The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated costs shall be based on a moving distance of 50 miles.)

(11) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(12) Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(13) Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed $1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation.

(ii) Meals and lodging away from home.

(iii) Time spent searching, based on reasonable salary or earnings.

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

(14) Other moving-related expenses that are not listed as ineligible under § 24.305, as the Agency determines to be reasonable and necessary.

(b) *Notification and inspection.* The following requirements apply to payments under this section:

(1) The Agency shall inform the displaced person, in writing, of the requirements of paragraphs (b) (2) and (3) of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in § 24.203.

(2) The displaced person must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(3) The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(c) *Self-moves.* If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency or prepared by qualified staff. At the Agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(d) *Transfer of ownership.* Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

(e) *Advertising signs.* The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

§ 24.304 Fixed payment for moving expenses—nonresidential moves.

(a) *Business.* A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§ 24.303 and 24.306. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the Agency determines that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, the business vacates or relocates from its displacement site.

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage; and

(3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

(5) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement (see § 24.2(e)).

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* A displaced farm operation (defined at § 24.2(i)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* A displaced nonprofit organization may choose a fixed payment of $2,500, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise.

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Agency determines is satisfactory.

§ 24.305 Ineligible moving and related expenses.

A displaced person is not entitled to payment for:

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this part does not preclude the computation under § 24.401(c)(4)(iii); or

(b) Interest on a loan to cover moving expenses; or

(c) Loss of goodwill; or

(d) Loss of profits; or

(e) Loss of trained employees; or

(f) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in § 24.306(a)(10); or

(g) Personal injury; or

(h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or

(i) Expenses for searching for a replacement dwelling; or

(j) Physical changes to the real property at the replacement location of a business or farm operation except as provided in § 24.303(a)(3) and § 24.306(a); or

(k) Costs for storage of personal property on real property already owned or leased by the displaced person.

§ 24.306 Reestablishment expenses—nonresidential moves.

In addition to the payments available under § 24.303 of this subpart, a small business, as defined in § 24.2(r), farm or nonprofit organization may be eligible to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They may include, but are not limited to, the following:

(1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

(2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(3) Construction and installation costs, not to exceed $1,500 for exterior signing to advertise the business.

(4) Provision of utilities from right-of-way to improvements on the replacement site.

(5) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.

(6) Licenses, fees and permits when not paid as part of moving expenses.

(7) Feasibility surveys, soil testing and marketing studies.

(8) Advertisement of replacement location, not to exceed $1,500.

(9) Professional services in connection with the purchase or lease of a replacement site.

(10) Increased costs of operation during the first two years at the replacement site, not to exceed $5,000, for such items as:

(i) Lease or rental charges,

(ii) Personal or real property taxes,

(iii) Insurance premiums, and

(iv) Utility charges, excluding impact fees.

(11) Impact fees or one-time assessments for anticipated heavy utility usage.

(12) Other items that the Agency considers essential to the reestablishment of the business.

(13) Expenses in excess of the regulatory maximums set forth in paragraphs (a)(3), (8) and (10) of this section may be considered eligible if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at an otherwise similar replacement site. In such cases the regulatory limitation for reimbursement of such costs may, at the request of the Agency, be waived by the Federal agency funding the program or project, but in no event shall total costs payable under this section exceed the $10,000 statutory maximum.

(b) *Ineligible expenses.* The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery or trade fixtures.

(2) Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation.

(3) Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except as provided in paragraph (a)(5) of this section.

(4) Interest on money borrowed to make the move or purchase the replacement property.

(5) Payment to a part-time business in the home which does not contribute materially to the household income.

(6) Payment to a person whose sole business at a displacement dwelling is the rental of such dwelling to others.

§ 24.307 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing agency causes the relocation of a utility facility (see §§ 24.2(y) and (z)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way; and

(2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement; and

(3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing agency; and

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing agency is permitted by State statute.

(b) For the purposes of this section the term "extraordinary expenses" means those expenses which, in the opinion of the displacing agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (See Appendix A, § 24.307.)

Subpart E—Replacement Housing Payments

§ 24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the person receives final payment for the displacement dwelling or, in the case of condemnation, the date the required amount is deposited in the court, or

(ii) The date the person moves from the displacement dwelling.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed $22,500. (See also § 24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date such person is initially offered a comparable replacement dwelling, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section; and

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidential to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential.*—(1) *Basic computation.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Mixed-use and multifamily properties.* If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered its acquisition cost when computing the price differential.

(3) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (Also see § 24.3.)

(4) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling, shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move; and

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at § 24.2(f)); and

(iii) The current fair market value for residential use of the replacement site (see Appendix A of this part, § 24.401(c)(4)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

(d) *Increased mortgage interest costs.* The displacing agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section.

The payment shall be an amount which will reduce the mortgage balance on the replacement dwelling to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d) (1)–(5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balances on the displacement dwelling; however, in the event the person obtains a smaller mortgage than the mortgage balance computed in the buydown determination, the payment will be prorated and reduced accordingly. (See Appendix A.)
In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling regardless of the term of the new mortgage.

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of such mortgage balance under this section.

(5) The displaced person shall be advised of the approximate amount of this payment as soon as the facts relative to the person's current mortgages are known and the payment shall be made available at the time of closing on the replacement dwelling.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or § 24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

(4) Certification of structural soundness and termite inspection when required.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determines to be incidental to the purchase.

(f) *Rental assistance payment for 180-day homeowner.* A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment not to exceed $5,250, computed and disbursed in accordance with § 24.402(b).

§ 24.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling, or

(ii) For an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the required amount is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment.*—(1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance. (See also § 24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Base monthly rental for displacement dwelling.* The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency. (For an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances; or

(ii) Thirty (30) percent of the person's average gross household income. (If the person refuses to provide appropriate evidence of income or is a dependent, the base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.)

(3) *Manner of disbursement.* A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by § 24.403(g), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) *Downpayment assistance payment.*—(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the discretion of the Agency, a downpayment assistance payment may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under § 24.401(b) if he or she met the 180-day occupancy requirement. An Agency's discretion to provide the maximum payment shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under § 24.401(a) is not eligible for this payment. (See also Appendix A of this part, § 24.402(c).)

(2) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 24.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at § 24.2(d)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling, to the extent justified by local market data (see also § 24.205(a)(2)). An obviously overpriced dwelling may be ignored.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(3) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing a payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 24.2(f).

(c) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling; or

(2) Purchases and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he or she owns or purchases; or

(4) Constructs a dwelling on a site he or she owns or purchases; or

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(d) *Occupancy requirements for displacement or replacement dwelling.* No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

(1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal agency funding the project, or the displacing agency; or

(2) Another reason, such as a delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the Agency.

(e) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under § 24.402(b) is eligible to receive a payment under § 24.401 or § 24.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under § 24.401 or § 24.402(c).

(f) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced persons period of actual occupancy of the replacement housing shall be paid.

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family member(s) continue to occupy a decent, safe, and sanitary replacement dwelling.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

§ 24.404 Replacement housing of last resort.

(a) Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in § 24.401 or § 24.402, as appropriate, the Agency shall provide additional or alternate assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable housing in the project or program area; and

(ii) The resources available to provide comparable housing; and

(iii) The individual circumstances of the displaced person; or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire project or program area; and, therefore a case-by-case justification for last resort housing assistance is not necessary; and

(ii) A project or program cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total project or program costs. (Will project delay justify waiting for less expensive replacement housing to become available?)

(b) *Basic rights of persons to be displaced.* Not withstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) *Methods of providing replacement housing.* Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in § 24.401 or 24.402. A rental assistance subsidy under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation, and, if necessary rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers to the handicapped.

(viii) The change in status of the displaced person from tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

(2) Under special circumstances, modified methods of providing housing of last resort permit consideration of:

(i) Replacement housing based on space and physical characteristics different from those in the displacement dwelling. (See Appendix A, § 24.404.)

(ii) Upgraded, but smaller replacement housing that is decent, safe and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence.

(iii) The financial means of a displaced person who is not eligible to receive a replacement housing payment because of failure to meet length-of-occupancy requirements when comparable replacement rental housing is not available at rental rates within 30% of the person's gross monthly household income.

Subpart F—Mobile Homes

§ 24.501 Applicability.

This Subpart describes the requirements governing the provision of relocation payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this Subpart, such a displaced person is entitled to a moving expense payment in accordance with Subpart D and a replacement housing payment in accordance with Subpart E to the same extent and subject to the same requirements as persons displaced from conventional dwellings.

§ 24.502 Moving and related expenses—mobile homes.

(a) A homeowner-occupant displaced from a mobile home or mobile homesite is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with § 24.301. A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under § 24.303. However, if the mobile home is not acquired, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at § 24.503(a)(3), the owner is not eligible for payment for moving the mobile home.

(b) The following rules apply to payments for actual moving expenses under § 24.301:

(1) A displaced mobile homeowner, who moves the mobile home to a replacement site, is eligible for the reasonable cost of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hook-up" charges.

(2) If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe and sanitary, and the Agency determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.

(3) A nonreturnable mobile home park entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

§ 24.503 Replacement housing payment for 180-day mobile homeowner-occupants.

(a) A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed $22,500, under § 24.401 if:

(1) The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;

(2) The person meets the other basic eligibility requirements at § 24.401(a); and

(3) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not and cannot economically be made decent, safe, and sanitary; or

(ii) Cannot be relocated without substantial damage or unreasonable cost; or

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) If the mobile home is not acquired, and the Agency determines that it is not practical to relocate it, the acquisition cost of the displacement dwelling used when computing the price differential amount, described at § 24.401(c), shall include the salvage value or trade-in value of the mobile home, whichever is higher.

§ 24.504 Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed $5,250, under § 24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at § 24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the owner or tenant is displaced from the mobile home because of one of the circumstances described at § 24.503(a)(3).

§ 24.505 Additional rules governing relocation payments to mobile home occupants.

(a) *Replacement housing payment based on dwelling and site.* Both the mobile home and mobile home site must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may elect to purchase a replacement mobile home and rent a replacement site, or rent a replacement mobile home and purchase a replacement site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable section in Subpart E. However, the total replacement housing payment under Subpart E shall not exceed the maximum payment (either $22,500 or $5,250) permitted under the section that governs the computation for the dwelling. (See also § 24.403(b).)

(b) *Cost of comparable replacement dwelling.* (1) If a comparable replacement mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(2) If the Agency determines that it would be practical to relocate the mobile home, but the owner-occupant elects not to do so, the Agency may determine that, for purposes of computing the price differential under § 24.401(c), the cost of a comparable replacement dwelling is the sum of:

(i) The value of the mobile home,

(ii) The cost of any necessary repairs or modifications, and

(iii) The estimated cost of moving the mobile home to a replacement site.

(c) *Initiation of negotiations.* If the mobile home is not actually acquired, but the occupant is considered displaced under the part, the "initiation of negotiations" is the initiation of negotiations to acquire the land, or, if the land is not acquired, the written notification that he or she is a displaced person under this part.

(d) *Person moves mobile home.* If the owner is reimbursed for the cost of moving the mobile home under this part, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(e) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the owner and any tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this part.

Subpart G—Certification

§ 24.601 Purpose.

This subpart permits a State Agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by § 24.4 of this part.

§ 24.602 Certification application.

(a) *General.* (1) The State governor, or his or her designee, on behalf of any State agency or agencies may apply for certification in accordance with this section.

(2) The governor may designate a lead agency to administer certification in accordance with this section.

(b) *Responsibilities of State agency.* (1) The State agency's application shall be submitted to the governor, or his or her designee, for approval or disapproval.

(2) The State agency application shall contain a statement that the State agency shall carry out the responsibilities imposed by the Uniform Act. The State agency application shall include a copy of the State laws and regulations which shall accomplish the purpose and effect of the Uniform Act.

(c) *Responsibilities of governor or his or her designee.* (1) The governor, or his or her designee, shall approve or disapprove the State agency's application.

(2) The governor, or his or her designee, shall have discretion to disapprove any State agency application.

(3) The governor, or his or her designee, shall analyze State law and regulations and shall certify that they accomplish the purpose and effect of the Uniform Act.

(4) The governor, or his or her designee, shall determine in writing whether the State agency's professional staffing is adequate to fully implement the State law and regulations.

(5) If the State agency's application is approved by the governor, or his or her designee, it shall be transmitted to the Federal agency providing financial assistance to the State agency, with an information copy to the Federal lead agency.

(6) When a determination is received from the Fedeal funding agency, the governor, or his or her designee, shall notify the State agency.

(d) *Responsibilities of Federal funding agency.* (1) The Federal funding agency shall accept the approved application for certification provided by the governor or his or her designee and shall not conduct an independent review unless or until future monitoring or other appropriate indicators reveal program deficiencies originating therefrom.

(2) The Federal funding agency shall transmit all complete, approved applications, for certification to the Federal lead agency.

(3) At the same time as transmission to the Federal lead agency or during the public comment period, the Federal funding agency shall provide its written assessment of the State agency's capabilities to operate under certification.

(4) The Federal funding agency shall promptly notify the governor, or his or her designee, of the Federal lead agency's determination described in paragraph (e)(2) of this section.

(5) The Federal funding agency shall recognize the State agency's certification within 30 days of the Federal lead agency's finding.

(e) *Responsibilities of Federal lead agency.* (1) The lead agency shall:

(i) Accept the approval provided by the governor, or his or her designee, and shall not conduct an independent review, except as provided for in (ii), (iii) and (iv), unless future monitoring or other appropriate indicators reveal program deficiencies originating therefrom.

(ii) Analyze the extent to which the provisions of the applicable State laws and regulations accomplish the purpose and effect of the Uniform Act, with particular emphasis on the definition of a displaced person, the categories of assistance required, and the levels of assistance provided to persons in such categories;

(iii) Provide a 60-day period of public review and comment, and solicit and consider the views of interested general purpose local governments within the

State, as well as the views of interested Federal and State agencies; and consider all comments received as a result;

(iv) Consider any extraordinary information it believes to be relevant.

(2) After considering all the information provided, the lead agency shall either make a finding that the State agency will carry out the Federal agency's Uniform Act responsibility in accordance with State laws and regulations which shall accomplish the same purpose and effect as the Uniform Act, or shall make a determination that a finding cannot be made; and shall so inform the Federal funding agency.

§ 24.603 Monitoring and corrective action.

(a) The Federal lead agency shall, in coordination with other Federal agencies, monitor from time to time State agency implementation of programs or projects conducted under the certification process and the State agency shall make available any information required for this purpose.

(b) A Federal agency that has accepted a State Agency's certification pursuant to this subpart may withhold its approval of any Federal financial assistance to or contract or cooperative agreement with such State agency if it is found by the Federal agency to have failed to comply with the applicable State law and regulations.

(c) A Federal agency may, after consultation with the lead agency, and notice and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State agency fails to comply with its certification or with applicable State law and regulations.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the lead agency report biennially to the Congress on State agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the lead agency may require periodic information or data from affected Federal or State agencies.

Appendix A To Part 24—Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

Subpart A—General

Section 24.2(j) Definition of comparable replacement dwelling.

The requirement in § 24.2(d)(2) that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, provide the same utility, and be capable to contributing to a comparable style of living as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa. Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or consequentially less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling.

Section 24.2(d)(7) requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing program, the rental assistance payment under § 24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Section 24.2(g)(2) Persons not displaced.

Section 24.2(g)(2)(iv) recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessary that an occupant of the property be displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily-occupied housing must be decent, safe and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation.

It is also noted that any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with § 24.10.

Section 24.2(k) Initiation of negotiations.

This section of the part provides a special definition for acquisitions and displacements under Pub. L. 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision is made later to permanently relocate such persons, those who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition which is based on the public health advisory or announcement of permanent relocation.

Section 24.3 No duplication of payments.

This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment under these regulations is computed.

Section 24.9(c) Reports.

This paragraph allows Federal agencies to require the submission of a report on activities under the Uniform Act no more frequently than once every three years. The report, if required, will cover activities during the Federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on Agencies implementing this part, a basic report form (see Appendix B of this part) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

Subpart B—Real Property Acquisition

Section 24.101(b) Less-than-full-fee interest in real property.

This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases. However, the Agency may apply the regulations to any less-than-full-fee acquisition which is short of 50 years but which in its judgment should be covered.

Section 24.102(d) Establishment of offer of just compensation.

The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures.

It is intended that an offer to an owner be adequately presented, and that the owner be properly informed. Personal, face-to-face contact should take place, if feasible, but this section is not intended to require such contact in all cases.

Section 24.102(i) Administrative settlement.

This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including reviewing appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession.

It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental.

Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed "the fair rental value * * * to a short-term occupier." The Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.103(a) Standards of appraisal.

In paragraph (a)(3) of this section, it is intended that all relevant and reliable approaches to value be utilized. However, where an Agency determines that the market approach will be adequate by itself because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the market approach.

Section 24.103(b) Influence of the project on just compensation.

As used in this section, the term "project" is intended to mean an undertaking which is planned, designed, and intended to operate as a unit.

Because of the public knowledge of the proposed project, property values may be affected. A property owner should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(e) Conflict of interest.

The overall objective is to minimize the risk of fraud and mismanagement and to promote public confidence in Federal and federally-assisted land acquisition practices. Recognizing that the costs may outweigh the benefits in some circumstances, § 23.103(e) provides that the same person may both appraise and negotiate an acquisition, if the value is $2,500 or less. However, it should be noted that all appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at $2,500, or less.

Section 24.104 Review of appraisals.

This section recognizes that Agencies differ in the authority delegated to the review appraiser. In some cases the reviewer establishes the amount of the offer to the owner and in other cases the reviewer makes a recommendation which is acted on at a higher level. It is also within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on a property.

Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and the analyses of that data, demonstrates the soundness of the appraiser's opinion of value. The qualifications of the review appraiser and the level of explanation of the basis for the reviewer's recommended or approved value depend on the complexity of the appraisal problem. For a low value property requiring an uncomplicated valuation process, the reviewer's approval, endorsing the appraiser's report, may satisfy the requirement for the reviewer's statement.

Section 24.106 Expenses incidental to transfer of title to the Agency.

Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. In addition, it is emphasized that such expenses must be reasonable and necessary.

Subpart C—General Relocation Requirements

Section 24.204(a) Availability of comparable replacement dwelling before displacement.

This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, § 24.204(a) requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation assistance advisory services.

Section 24.205(c)(2)(ii)(C) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.206 Eviction for cause.

Basic eligibility for assistance is established on the basis of facts existing as of the date of the initiation of negotiations. Once the Agency has determined that a person has satisfied such requirements there is no basis for changing that determination.

Section 24.207 General requirements—claims for relocation payments.

Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate.

Subpart D—Payment for Moving and Related Expenses

Section 24.307 Discretionary utility relocation payments.

Section 24.307(c) describes the issues which must be agreed to between the displacing agency and the utility facility owner in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR, Part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

Subpart E—Replacement Housing Payments

Section 24.401 Replacement housing payment for 180-day homeowner-occupants.

The provision in § 24.401(c)(4)(iii) to use the current fair market value for residential use does not mean the Agency must have an appraisal made. Any reasonable method at arriving at the fair market value may be used.

The provision in § 24.401(d) set forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages.

In any case where the person elects to obtain a replacement mortgage of a lesser amount than the one computed in the buydown determination, then the amount computed as the "buydown" payment must be adjusted to reflect the change in mortgage amount. This can be done through proration by dividing the amount of the actual replacement mortgage by the computed eligible replacement mortgage amount. This calculation provides a percentage factor which can then be applied to the computed "buydown" amount resulting in an adjusted increased mortgage interest payment.

Section 24.402 Replacement housing payment for 90-day occupants.

The downpayment assistance provisions in § 24.402(c) are intended to limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance which exceeds the computed rental assistance payment, up to the $5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or indiscriminate fashion. The displacing agency should develop a policy which affords equal treatment for persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For purposes of this section, the term downpayment means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the downpayment may be the amount which the Agency determines is necessary.

Section 24.404 Replacement housing of last resort.

Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may vary from the usual standards of comparability. However, it should be specially noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

Section 24.404(b) Basic rights of persons to be displaced.

This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement.

Appendix B to Part 24—Statistical Report Form

This appendix sets forth the statistical information collected from Agencies in accordance with § 24.9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally assisted project or program subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Pub. L. 100–17, 101 Stat. 132.

2. *Report period.* Activities shall be reported on a Federal Fiscal Year basis, i.e., October 1–September 30.

3. *Where and when to submit report.* Submit an original and two copies of this report to (*Name and Address of Federal Agency*) as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts B and C to the nearest dollar.

6. *Statutory references.* The references in Part B indicate the Section of the Uniform Act that authorizes the cost housing payment under § 24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at § 24.2(n). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing replacement housing.

The use of cost effective means of providing replacement housing is implied throughout the subpart. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

Subpart F—Mobile Homes

Section 24.503 Replacement housing payment for 180-day mobile homeowner-occupants.

A 180-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under § 24.401 and a replacement housing payment for a site computed under § 24.402. A 180-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under § 24.401 to assist in the purchase of a replacement site or, under § 24.402, to assist in renting a replacement site.

Part A. Persons Displaced

Report in Part A the number of persons ("households,") "businesses, including nonprofit organizations," and "farms") who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling or location. This includes businesses, nonprofit organizations and farms which, upon displacement, discontinued operations. The category "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit. Persons shall be reported according to their status as "owners" or "tenants" of the property from which displaced.

Part B. Relocation Payments and Expenses

Columns (A) and (B). Report in Column (A) the number of claims approved during the report year. Report in Column (B) the total amount represented by the claims reported in Column (A).

Lines 7A and 9, Column (B). Report in Column (B) the amount of costs that were included in the total amount approved on Lines 6 and 8, Column (B).

Lines 12A and B. Report in Column (A) the number of households displaced by project or program activities which were provided assistance in accordance with Section 206(a) of the Uniform Act. Report in Column (B) the total financial assistance under Section 206(a) allocable to the households reported in Column (A). (If a household received financial assistance under Section 203 or Section 204 as well as under Section 206(a) of the Uniform Act, report the household as a claim in Column (A), but in Column (B) report *only* the amount of financial assistance allocable to Section 206(a). For example, if a tenant-household receives a payment of $7,000 to rent a replacement dwelling, the sum of $5,250 shall be included on Line 10, Column (B), and $1,750 shall be included on Line 12B, Column (B).)

Line 13. Report on Line 13 all administrative costs incurred during the report year in connection with providing relocation advisory assistance and services under Section 205 of the Uniform Act.

Line 15. Report on Line 15 the total number of relocation appeals filed during the fiscal year by aggrieved persons.

Part C—Real Property Acquisition Subject to Uniform Act

Line 16, Columns (A) and (B). Report in Column (A) all parcels acquired during the report year where title or possession was vested in the acquiring agency during the reporting period. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.) Report in Column (B) the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the acquiring agency.

Line 17. Report on Line 17 the number of parcels reported on Line 16 that were acquired by condemnation where price disagreement was involved.

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UNIFORM RELOCATION ASSISTANCE
AND REAL PROPERTY ACQUISITION
STATISTICAL REPORT FORM

FEDERAL FISCAL YEAR ENDING SEPT. 30, 19___

REPORTING AGENCY____

CITY/COUNTY/STATE____

FEDERAL FUNDING AGENCY____

PART A. PERSONS DISPLACED BY ACTIVITIES SUBJECT TO THE UNIFORM ACT DURING THE FISCAL YEAR

ITEM	TOTAL (A)	OWNERS (B)	TENANTS (C)
1. HOUSEHOLDS (FAMILIES & INDIVIDUALS)			
2. BUSINESSES & NONPROFIT ORGANIZATIONS			
3. FARMS			

PART B. RELOCATION PAYMENTS & EXPENSES UNDER THE UNIFORM ACT DURING THE FISCAL YEAR

ITEM		NO. OF CLAIMS (A)	AMOUNT (B)
4. PAYMENTS FOR MOVING HOUSEHOLDS	ACTUAL EXPENSES-SEC.202(A)		
5. PAYMENTS FOR MOVING HOUSEHOLDS	SCHEDULE PAYMENT/DISLOCATION ALLOWANCE-SEC.202(B)		
6. PAYMENTS FOR MOVING BUSINESSES/FARMS/NPO	ACTUAL EXPENSES-SEC.202(A)		
7. PAYMENTS FOR MOVING BUSINESSES/FARMS/NPO	IN LIEU PAYMENTS-SEC.202(C)		
7A. NO. OF CLAIMS AND AMOUNT ON LINE 6 ATTRIBUTABLE TO REESTABLISHMENT EXPENSES			
8. REPLACEMENT HOUSING PAYMENTS FOR 180 DAY HOMEOWNERS-SEC.203(A)			
9. NO. OF CLAIMS AND AMOUNT ON LINE 8 ATTRIBUTABLE TO INCREASED MORTGAGE INTEREST COSTS			
10. RENTAL ASSISTANCE PAYMENTS (TENANTS & CERTAIN OTHERS)-SEC.204(1)			
11. DOWNPAYMENT ASSISTANCE PAYMENTS (TENANTS & CERTAIN OTHERS)-SEC.204(2)			
12A. HOUSING ASSISTANCE AS LAST RESORT-SEC.206(A)	OWNERS		
12B. HOUSING ASSISTANCE AS LAST RESORT-SEC.206(A)	TENANTS		
13. RELOCATION ADVISORY SERVICES COSTS-SEC.205		\\\\\\\\\\\\\\\\	
14. TOTAL (SUM OF LINES 4(B) THROUGH 13(B)), EXCLUDING LINES 7A AND 9		\\\\\\\\\\\\\\\\	
15. RELOCATION GRIEVANCES FILED DURING THE FISCAL YEAR IN CONNECTION WITH PROJECT/PROGRAM			\\\\\\\\\\\\\\\\

PART C. REAL PROPERTY ACQUISITION SUBJECT TO THE UNIFORM ACT DURING THE FISCAL YEAR

ITEM	NO. PARCELS (A)	COMPENSATION (B)
16. TOTAL PARCELS ACQUIRED		
17. TOTAL PARCELS ACQUIRED BY CONDEMNATION INCLUDED ON LINE 16 WHERE PRICE DISAGREEMENT WAS INVOLVED		\\\\\\\\\\\\\\\\

[FR Doc. 88-16304 Filed 7-20-88; 8:45 am]

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