



**Federal Highway Administration  
Office of Real Estate Services**

**Uniform Relocation  
Assistance and Real  
Property Acquisition  
Policies Act of 1970, as  
amended (URA)  
49 CFR Part 24**

**INFORMATIONAL GUIDE**

FINAL (MARCH 8, 2005)

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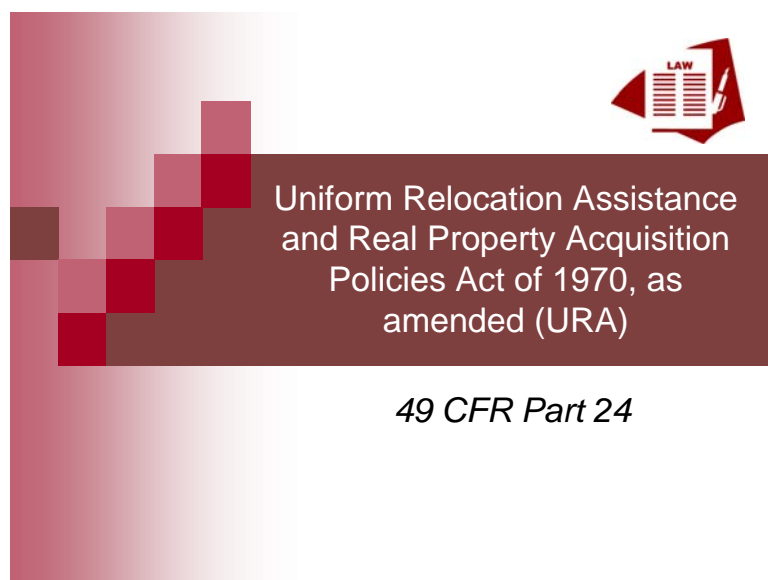
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## Introduction

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 49 CFR Part 24



**NOTES:** This training program covers the final rule issued on January 4, 2005 revising 49 CFR Part 24. This section of the Code of Federal Regulations contains the unified rule implementing the URA. The final rule is effective on February 3, 2005.

The final rule issued in January was effective in 30 days, on February 3, 2005. Since most everything in the final rule had been included in the Notice of Proposed Rule Making (NPRM) issued December 17, 2003 the 30-day period was deemed sufficient notice considering the changes were regulatory and had been under discussion for a full year.

**INSTRUCTOR NOTES:** This session will serve as an opportunity for the introduction of the instructors and the participants.

Emphasize – there are no statutory changes associated with this rule change. It would be appropriate to create a statutory “parking lot” during discussions to keep track of comments/concerns that can only be addressed by a change of the statute.

The coverage of the introduction is designed to review the background information surrounding the development and current modification of this part. It will also go over the extent of changes made to 49 CFR Part 24 and present the new material in Subpart A – Definitions.

## For Additional Information

March 2005



## For Additional Information

Contact an FHWA Division Realty Officer at

<http://www.fhwa.dot.gov/realestate/divroster.htm>

-or-

Mamie Smith-Fisher, HQ Contact for the new rule at

[Mamie.Smith@fhwa.dot.gov](mailto:Mamie.Smith@fhwa.dot.gov)

URA resources

<http://www.hud.gov/relocation>

<http://www.fhwa.dot.gov/field.html#fieldsites>

## Training Objectives

March 2005



## Training Objectives

- Identify what changed.
- Understand why the changes were made.
- Know how the changes affect operations.

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**NOTES:** The objective for the training is to cover how the newly issued rule affects operations. Minor wording changes for clarity, section reorganization for ease of use, and added interpretive material were intended to make the rule easier to use and better meet current needs.

Since statutory benefit limits remain unchanged, it must be recognized that the modified regulation adjusted the benefit mix and provided opportunities to offer better service to those persons affected by acquisitions subject to the URA.

**INSTRUCTOR NOTES:** Statutory benefit limits did not change. This training will point out where the modifications in the regulation adjust certain benefits and provide additional assistance to persons affected by acquisitions subject to the URA. The training will also address those changes in the rule that present opportunities for the agency to streamline their acquisition process.

## Key Topics

March 2005



### Key Topics

- Purpose of the URA.
- Purpose and scope of the revision.
- Modifications or additions to provisions.
- Identification of opportunities.
- Implications of benefits.

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**NOTES:** The training will briefly review background material including the purpose of the original legislation. We will cover how the rule has evolved and then address the content of the latest rule, going over the main changes sequentially as they are found throughout the rule. The introduction will cover Subpart A revisions, most of which are located in the definitions section. The actual application will be covered in the appropriate Subpart.

**INSTRUCTOR NOTES:** This brief introduction is primarily designed to go over the new rule, and provide the participant with an understanding of how the revised rule fits within the 30 plus year history of the legislation. Looking back is necessary so that the changes can be put in proper perspective. Since the session is being presented after the rule became effective the participants will already have their own interpretation and understanding of the rules content.

The objective for the session needs to be pointed out, the rule received a comprehensive review and changes were made accordingly. Clarification, reorganization for ease of use, modified and added interpretive material, result in a rule that better meets current needs.

Statutory benefit limits remain the same – the modified regulations may result in some changes in how benefits and services are delivered.



## Training Organization

March 2005



## Training Organization

- Introduction
  - Background.
  - Subpart A – General, § 24.2 Definitions.
  - Appendices A and B.
  - Scope of revision.
- Subpart B - Real Property Acquisition:
  - Valuation, appraisal, & appraisal review.
  - Acquisition.

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### NOTES: Overview of the Training Session

Background - Trace the history of the URA from 1971 thru the original Unified Rule in 1989. Mention the minor amendments due to legislation mandates in the 1990's, and review the process leading to the January 4, 2005 Final Rule.

Subpart A – Although some minor revisions were made to update references the only changes in this subpart was to § 24.2 Definitions. We'll go over what changed briefly, but leave the detail to be covered where the new term is applied in the rule.

Appendix A & B – We will discuss the changes made to each appendix.

Scope of Revision - We will point out where the rule was revised in general and highlight the scope of change in each subpart. Promote open discussion within group to identify the key items they see within each section.

### Subpart B

Valuation, Appraisal & Appraisal Review – Presentation will go over in detail the rule provisions affecting property valuation and appraisal.

Acquisition - Presentation will go over the rule revisions dealing with offers, negotiating, reaching settlements and other related practices necessary to acquire property.

## Training Organization (cont.)

March 2005



## Training Organization (cont.)

- Subpart C -- General Relocation.
- Subpart D – Moving Cost.
- Subpart E – Replacement Housing.
- Subpart F -- Mobile Homes.
- Summation.

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Continuation of Orientation Organization

### **NOTES:**

Subpart C - General Relocation Requirements as they affect eligibility, planning, and advisory services.

Subpart D - Moving Cost & Related Expenses. (reorganized subpart)

Subpart E - Replacement housing computation and calculation modifications.

Subpart F - Mobile home (reorganized subpart)

Summation - Recap of the presentation and a period to assess any open questions or issues that need to be resolved.

## URA – Purpose

March 2005



### URA - Purpose

- For acquisition:
  - Treat owners fairly and consistently.
  - Encourage acquisition by agreement.
  - Minimize litigation.
  - Promote confidence.

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**NOTES:** Historic purpose underlying the URA

The underlying purpose needs to be understood so when interpretations of the rule are required, the decisions can be formed to compliment the URA Purpose.

## URA – Purpose (cont.)

March 2005



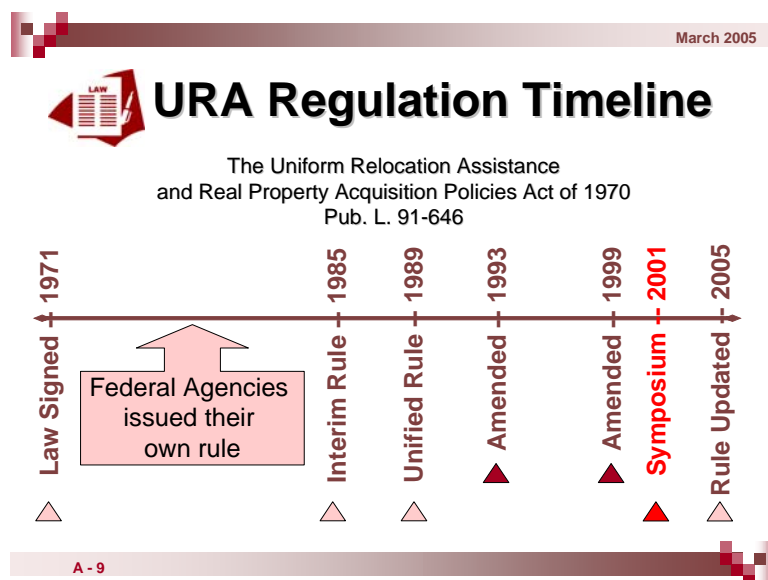
## URA – Purpose (cont.)

- For displaced persons:
  - Treat individuals fairly, equitably, consistently.
  - Do not cause disproportionate injury.
  
- For Agencies:
  - Act efficiently and in a cost-effective manner.

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**NOTES:** Historic purpose underlying the URA

## URA Regulation Timeline



**NOTES:** It is important to recognize that the URA is a law with over 30 years of history behind it. Originally the Federal Agencies individually implemented their own regulations. Only in 1989 was a unified rule issued. This is the first reissue of a revised rule since then.

**INSTRUCTOR NOTES:** Provide a brief history of the transition made over the last 30 years to implement the URA. Track the shift to a unified rule in 1989.

- 1970 URA enacted January 2, 1971 was implemented by each Federal Agency that administered programs requiring acquisition of real property.
- By 1978 – the GAO issued a Report to Congress (March 8, 1978 No. GGD-78-6) indicating the goal of Uniform treatment.
- The report initiated a movement within government which evolved during the early 80's into publication of a model "Uniform Rule" with FHWA serving as the Lead Agency. The model rule was published in 1985. All Federal Agencies issued their own rules based on the model.
- In 1987 Congress passed The Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17, April 2, 1987) amending the URA and confirming USDOT as Lead Agency.
- In 1989 FHWA issued the Final Unified Rule. This action followed all other Federal Agencies rescinding their own rule and providing a cross reference to 49 CFR Part 24.
- In the early 90's there were a couple of coordination attempts to revise the rule but none took hold and only two minor amendments were made to the rule.

- The 1993 Amendments to reduce regulatory burden.
- The 1999 Amendments to prohibit payments to aliens not lawfully present in the United States.

## Current Update

March 2005



### Current Update

- 2001 30<sup>th</sup> Anniversary Symposium.
- Federal Interagency Task Force.
- 2002 – 5 listening sessions.
- 2003 NPRM on December 17:
  - 775 Comments received to the docket.
  - 2004 – 3 public meetings.
- 2005 Final rule on January 4.

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**NOTES:** The current revision was initiated shortly after the 30 year Anniversary Symposium on the URA. A total of 18 Federal Agencies, including the recently formed Department of Homeland Security and their programs are subject to the Act. The rules issued are the result of their collaboration over the past 3 plus years and the public input received.

Other reference points include research studies such as the National Business Study referenced in the rule, and the Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* which were issued subsequent to the 1989 unified rule.

The 30th Anniversary Symposium was the catalyst that fostered the listening sessions in 2002 that lead to the 2003 publication of the NPRM to amend the 1989 unified rule.

This process resulted in a government wide final rule that effectively addresses the needs and best practices for all government Agencies administering programs subject to the URA.

Final Rule published January 4, 2005 and became effective February 3, 2005.

## Effective Date

March 2005



### Effective Date

- Final rule published -- January 4, 2005.
- Rule effective -- February 3, 2005.
- State laws, regulations, guidance updated.

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**INSTRUCTOR NOTES:** Discuss why a 30 Day period was given until rule became effective. Point to the material in the Final Rule (Pages 610 to 611) for reasons the rule became effective in 30 days. Plus the fact that the NPRM had been out for a year and the adopted changes were under consideration in a collaborative way for 3 plus years with other government Agencies.

Point out that updating State Laws, regulations & guidance is expected to take a longer period and extend beyond the effective date just as the Federal agencies & FHWA have been taking steps to update their guidance and published materials to conform with the new rule. For FHWA see guidance issued on January 4, 2005 relative to transition and general waivers. This was also referenced in January 18, 2005, Memo to FHWA Division Offices. Moreover, State Dept. of Transportation (STD) Right of Way Operations manuals must be updated by January 1, 2006, unless FHWA grants a waiver.



## Effective Date of Final Rule



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

### Memorandum

Subject: **INFORMATION**: Effective Date of Final Rule  
Changes to the Governmentwide Uniform Act Regulation

Date: January 4, 2005

From: Susan Lauffer /s/ *Susan Lauffer*  
Director, Office of Real Estate Services

Reply to  
Attn. of:  
HEPR-1

To: Directors of Field Services  
Division Administrators  
Division Engineers, HFL  
Attn: Division Realty Professionals

The purpose of this memorandum is to notify you that on January 4, 2005, the FHWA published a final rule in the Federal Register, incorporating into the governmentwide Uniform Act regulations provisions that had been the subject of the December 17, 2003, notice of proposed rulemaking.

The effective date of the final rule is February 3, 2005. All provisions of the final rule, including modifications of entitlements and benefits to displacees, become effective on that date.

### **Transition Procedures for Projects**

Property owners, tenants, and other displacees are entitled to the benefits and protections in effect as of the date of the initiation of negotiations (ION) for the parcel in question. The ION means the delivery of the initial written offer of just compensation by the Agency to the owner or owner's representative to purchase the real property for the project. Reference: 49 CFR 24.2(a)(15).

For projects underway as of the effective date for the final rule, the applicable rules are as follows:

1. If the ION occurred for a parcel before the effective date for the final rule, property owners, tenants, and other displacees are entitled to benefits under the regulation in effect as of the date of the ION.

2. If the ION did not occur for a parcel before the effective date of the final rule, property owners, tenants, and other displacees from that parcel are entitled to the benefits and protections contained in the final rule.
3. If a project is underway and the ION has occurred for some, but not all parcels, the State may provide consistent benefits and procedures across that project by following the final rule provisions for all parcels. That decision is left to the State's discretion.

### **Updating State Laws, Regulations, and Manuals**

State procedures and guidelines, including Right-of-Way manuals, must be updated to reflect the provisions of the final rule and remove conflicting provisions. State DOTs are required to submit the changes to their Right-of-Way manuals to their FHWA Division Office for approval. To simplify administration of this requirement, the final date for revisions will be January 1, 2006. That is the same date previously established under 23 CFR 710.201 (c)(2) for the next State certification that its Right-of-Way Manual conforms to existing practices and contains necessary procedures to ensure compliance with Federal and State real estate law and regulation. This gives each state a year to evaluate its practices and manual and complete the required updates. Note that this does not affect the applicability of the provisions of the final rule. All States must operate in accordance with the final rule as of the effective date of the rule unless the State holds a waiver approved in writing by the FHWA Headquarters.

### **Transition Waivers**

Some States may not be able to operate in accordance with the final rule as of its effective date because of conflicts between the final rule and the State's laws or regulations. Those States may request a waiver under 49 CFR 24.7 from the conflicting provisions of the final rule, as well as a waiver from the January 1, 2006, deadline for updates if that is necessary due to the lack of a complete legislative cycle in 2005. Requests must be in writing. The request must show good cause for the waiver by identifying the legal or regulatory provision that causes the conflict, describing the reasons the State believes there is a conflict that it cannot reconcile without legislative action, and outlining the State's plan and schedule for attaining compliance. The FHWA generally will not consider a lack of timely action by the State as justification for a waiver. Transition waivers will be time-limited waivers of the specific conflicting provision(s) of the Federal regulation. If the FHWA grants a transition waiver, it will permit application of the old rule provision(s) in question for one legislative cycle (i.e., to give the State the opportunity to change the law at its next legislative session).

### **General Waivers**

The FHWA also anticipates that some States may desire waivers from specific provisions of the final rule for general operating or other reasons. The FHWA believes that it should exercise caution in granting waivers from the new rule until the provisions have been in effect long enough for agencies to evaluate fairly the effects of the final rule. Therefore, the FHWA's Office of Real Estate Services (HEPR) will take a particularly hard look at requests received during the first 18 months after the effective date of the final rule. HEPR anticipates approving such requests only if there is an extremely

strong justification, and if the needs of the FHWA Federal-aid program support granting a State more flexibility than is found in the government-wide rule.

If a State feels that a waiver is warranted, the provisions outlined below must be met. These requirements are consistent with the January 25, 2002, guidelines issued by HEPR to govern waivers from appraisal waiver and conflict of interest caps under the Uniform Act implementing regulation.

To seek a general waiver, a State should submit a written request to the FHWA Division Office. The written request must demonstrate that the waiver would meet the requirements of 49 CFR 24.7, and that the waiver would be consistent with both Federal statutes and the FHWA policy. The written request should:

1. Define the problem the waiver is intended to address, including any available data to support need for the waiver.
2. Describe the options the State considered to address the problem and why the non-waiver options do not meet the State's needs.
3. Define the operating parameters of the proposed waiver. For example, geographic limits may range from broad to restricted (statewide, one area, one project, etc.), or the time period may be constrained or indefinite.
4. Describe the proposed procedures for implementing the waiver.
5. Demonstrate that the impacts of the waiver will not reduce any assistance or protection provided to an owner or displaced person.
6. Outline the quality assurance process that the State will use to monitor the impacts of the waiver, to make certain that there are no adverse effects on the assistance and protections provided to an owner or displaced person under 49 CFR Part 24.
7. Confirm the State's intention to formalize the new procedure through a revision of its Right-of-Way manual.

### **FHWA Review of Transition and General Waivers**

The FHWA Division will review the State's request for completeness. If a request is complete, the Division will forward it to its HEPR Point-of-Contact, along with the Division's evaluation and recommendation on the merits of the request. The Point-of-Contact will be responsible for coordinating the review process between HEPR and the Division.

For HEPR to approve a general waiver request, the Division must commit to performing an annual review and reporting to HEPR on the impacts of the waiver, specifically evaluating whether or not the waiver is having negative effects on property owner and displaced person assistance and protections under 49 CFR Part 24. In the annual review, the Division also must evaluate and comment on the impact of the waiver program on the State's overall Right-of-Way program.

In 2005, HEPR will review waivers granted before the effective date of the final rule to determine whether to continue, modify, or withdraw those waivers. HEPR Points-of-Contact will be in touch with the Divisions in the coming months to initiate those reviews.

**Information Resources**

The final rule may be found on pages 589-638 of the January 4, 2005, Federal Register. Please note that the new rule is effective on February 3, 2005, and can be found at [www.fhwa.dot.gov/realestate](http://www.fhwa.dot.gov/realestate).

## Responses to Division Questions on New Rule



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

### Memorandum

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Subject: INFORMATION: Responses to Division  
2005  
Questions on New Rule

Date: January 18,

From: Susan Lauffer /s/ *Susan Lauffer*  
Director, Office of Real Estate Services

Reply to: HEPR-1

To: Directors of Field Services  
Division Administrators  
Division Engineers, HFL  
Attn: Division Realty Professionals

As you are aware, the new Uniform Act rule, 49 CFR Part 24, goes into effect on February 3, 2005. The Office of Real Estate Services (HEPR) has received a number of questions relating to the new rule and related implementation activities. Responses to the questions received to date are attached for your information.

For further information, please contact Mamie Smith-Fisher at (202) 366-2529 or [Mamie.Smith@fhwa.dot.gov](mailto:Mamie.Smith@fhwa.dot.gov).

Attachment

**49 CFR, Part 24 - Final Rule**  
**Replies to Questions From the FHWA Divisions**  
**As of January 19, 2005**

**Topics:**

Training  
Publications  
Waivers  
Transition

**Training:****1. Can we change our "assigned" FHWA training session location? Why or why not?**

Changes can be made if space is available. Open registration without State-by-State assignments was not deemed feasible given the space limitations. The States designated for each location will have priority over States wishing to change their location. States wishing to change locations can ask to have space reserved for their designated location and to go on a waiting list for the location they desire.

**2. If we or our states are unable to attend any of the training sessions due to lack of funding, is there some way we can get the training online? Or via videoconference?**

The training notice indicated a HUD-sponsored webcast set for February 24, 2005. People can tap into this session through the Internet. Details will be sent to Divisions when available. The webcast will be archived as well, and we plan to have it available for people to view. However, the details of this proposal are still under negotiation.

**3. How many people from my state can attend the training?**

It depends on the demand for the site. Subtract from 50 the number of Division people in the designated States, then divide the resulting number by the number of States designated. That produces the minimum allotment for each State. However, some States may be able to exceed their allotment if other States do not ask for their full allotment.

**4. What are the times for the training sessions? I need to book flights and need to know when it starts and ends.**

The training sessions will run from 8:30 a.m. to 4:30 p.m. You can anticipate one full day.

**5. What is the charge for the training?**

The FHWA training is free. The only cost to the Divisions and State DOTs is travel.

**6. Will the training sessions be taped so we can watch them later and/or show our staff?**

This is not anticipated because the webcast will be available afterwards online.

**7. Will HQ be putting out a side-by-side comparison as you did back in January of 2004?**

Staff completed the side-by-side comparison today, which will be placed on Staffnet. We also will post the documents on the FHWA public website, at <http://www.fhwa.dot.gov/realestate/ua/index.htm>. A notice of that posting will be sent via Realty.

**8. Will there be a CD produced from the training sessions? Can I order some for my state?**

This was not anticipated because the webcast makes it unnecessary. See the next question for additional information.

**9. Will your agency be available to provide additional training sessions if requested to do so by State Agencies?**

The purpose of the training sessions around the country is to train our Division Right-of-Way Officers and key State personnel who will be responsible for training their people. The FHWA will provide the training package, which includes the instructor's material and slides. This material will be available for the States and/or the FHWA right-of-way officers to present the training sessions. This will give the States an opportunity to present their specific procedures, as well as, the Federal requirements, to their own trainees.

**Publications:**

**10. When will brochures, newsletters, and articles be published?**

Brochures may be published in the future, but they are not a part of the current marketing strategy. A newsletter is being produced and should be completed by January 21, 2005. It will be posted on the FHWA website and emailed to the Realty group (it can be easily duplicated). An article will appear in the May/June issue of the IRWA Magazine. For other magazines and press releases, the write-up must go thru FHWA Public Relations Department before publication. We do anticipate placing articles in other magazines.

**11. Will updated videos be produced and distributed?**

Not this year, due to time and budget constraints and the statutory review that is underway. The plan is to update the videos once the statutory review and update is completed.

**12. What about the updates for the Appraisal, Acquisition, and Relocation pamphlets? When can we expect these?**

It will take at least 6 months to get revisions completed and have the published documents ready for distribution. Hopefully, there will be funds available for publishing hard copies. At the least, we will make them available online in electronic format.

**Waivers:**

**13. What if our DOT cannot legally implement the revised rule by February 3? Will they be able to get a waiver? Will there be a "short-cut" format created for these waiver requests?**

If a DOT cannot legally implement the revised rule by February 3, 2005, the DOT should apply for a transition waiver of the provision(s) the State cannot implement. We have no "short-cut" form, but we do have a set of specific guidelines that we itemized in our January 4, 2005 transition guidance. We

believe individual attention and narrative (as opposed to multiple-choice or T/F) responses are necessary. FHWA will not automatically grant transition waivers. The Divisions and Headquarters will evaluate requests on their merits. Note that transition waivers are not intended as a method to avoid the sometimes more difficult internal process of updating State rules to conform to changes in the Federal rules.

**14. What will be the turnaround time in HEPR for waiver requests?**

Within 2 weeks of a complete application (as described in the January 4, 2005 guidance).

**15. What happens to the appraisal waiver threshold waivers some States currently have in place?**

We are aware that some States have waivers permitting the use of an appraisal waiver threshold between \$2,500 and \$25,000 (\$25,000 being the maximum approved limit even under a waiver). We developed the following procedures for those States:

1. DOTs operating at an appraisal waiver threshold of \$10,000 or below will no longer need a waiver to operate at that level. Those waivers automatically terminate.
2. DOTs holding waivers to operate at a threshold between \$10,000-\$25,000, if they wish to continue operating at that higher level, will need to comply with the new 24.102(c)(2)(ii)(C).
  - a. DOTs that already have a provision to offer property owners an appraisal will no longer need a waiver. Such States only need to request 24.102(c)(2)(ii)(C) approval from their FHWA Division office to continue their present operating procedures.
  - b. DOTs that do not have a provision to offer property owners an appraisal will need to reevaluate their operating procedures and either:
    - i. Modify their procedures to comply with the new 49 CFR provision to offer property owners an appraisal and request approval from their FHWA Division office under 24.102(c)(2)(ii)(C), or
    - ii. Resubmit a 24.7 waiver application specifically requesting waiver from the provision requiring the offer of an appraisal to property owners.
3. If a DOT does not take one of the actions described in Paragraph 2(b)(i) or (ii) above, then FHWA Headquarters will review the DOT's existing waiver to determine whether to withdraw it. While Headquarters will consider individual circumstances, it should be noted that 24.102(c)(2)(ii)(C) reflects a decision that Headquarters believes is appropriate for FHWA programs. Substantial justification based on unique circumstances will be needed to warrant deviation from that provision.

Note that a DOT that does not have a waiver from existing rules and that wants an increased threshold between \$10,000 and \$25,000 under 24.102(c)(2)(ii)(C) will have to make a formal request to its Division office for approval under that provision. This action does not involve a waiver.

In all cases, the Division will evaluate and make a decision on 24.102(c)(2)(ii)(C) requests. The Division will send its decision, in writing, to its DOT. The Division also will send copies of the DOT's request and the Division's approval to FHWA Headquarters. Divisions should send the documents to their Headquarters Point of Contact. The Points of Contact will forward a copy to Reginald Bessmer for inclusion in the official files.

**16. Will examples of waiver requests be provided so I can help guide my state?**



HEPR does not anticipate issuing a "template." The points that applications should address are described in the January 4, 2005 guidance on the new rule. We suggest Divisions evaluate whether their State has provided sufficient and convincing information that supports making a business judgment on the request. In making that judgment, important considerations include whether the information supplied is relevant to the required points, has enough detail, and supports the premise for which the information is offered.

**17. Can a State further limit the waiver threshold level for their LPA's? That is, if a DOT is operating at, say, \$10,000, can it restrict its LPA's to, say, \$5,000?**

The revised rule does not prevent a DOT from limiting LPA's to a threshold below their (DOT's) operating level. We recommend that State DOTs consider applicable state statutes, regulations, policies and procedures, together with their judgment about the LPA's capacity, to determine the appropriate waiver threshold for their LPAs.

**Transition**

**18. In the transition procedures memo, number 3 on the first page isn't clear. First you say that if ION has occurred on some parcels but not on others, we should follow the Final Rule provisions. Then you say the decision is up to the state. Which one is it?**

First, we would like to reiterate that the initiation of negotiations (ION) is the critical date for determining which provisions apply to a particular owner or displacee. This derives from the provision of 49 CFR 24.203, concerning eligibility. If the ION occurs before February 3, 2005, then the individual's eligibility is tied to the "old" rule. If the ION occurs on or after February 3, 2005, then eligibility is based on the new rule.

However, we recognize the need to promote equitable treatment of owners, tenants, and other displacees who are affected by the same project. This may be a challenge where a project's acquisition and relocation activities "bridge" the new and old rules. For that reason, we are providing the States with the discretion in such "bridge" cases to apply the requirements of the new rule to persons for whom eligibility determinations already have been made under the old rule. As described in item 3 of the January 4, 2005 guidance, this means that if a project is underway and ION has occurred for some but not all project parcels, then

1. The State may decide to apply the new rules to all parcels on the project; or
2. The State may decide that the parcels with offers already made under the old rule will be treated under the old rule, and the remaining parcels without offers will fall under the new rule.

Stated another way, the State has discretion to decide whether to apply the improved benefits or procedures under the new rule to all parcels on the project, or to only those parcels where the offer is made after the effective date of the rule. Note that this flexibility applies only to improve the results to the recipients, not to reduce any procedures or benefits.

**19. What happens if you have a pilot project?**

Pilot projects will continue, per the parameters of the pilot: the authorizations for the pilots are not affected by this revised rule.

## Intent of Rule Revisions

March 2005



### Intent of Rule Revisions

- Advance national program uniformity.
- Meet contemporary needs.
- Improve service to individuals and businesses.
- Reduce administrative burden.
- Make rule easier to understand.

A - 12

**INSTRUCTOR NOTES:** As a lead in to the discussion of the changes to the rule, present the intent or purpose for the 3+ year effort to upgrade the rule.

Because training is being held after the rule became effective most all participants will be familiar with the rule and some, if not all of the changes. They will have questions that will need to be addressed.

As a prelude to going over the rule and hitting the highlights now is the time to start the dialogue to identify the top five – or ten – issues that the participants have concerns about or want more information on so that the module presentations can be assured to address those items in more detail.

Interactivity – Instructor can ask students for a list of issues and concerns they have and want addressed during this training if there is time.

#### **Effective February 3, 2005 – Summary of Significant Changes**

**Purpose of Uniform Act** – To provide fair, equitable and consistent treatment without disproportionate injury for persons being displaced as a result of a Federal or federally funded project

**Discuss why only a 30 day period was given until rule became effective** – The action is not a significant regulatory action nor is it significant within the meaning of DOT regulatory policies and procedures. The final rule action updates and streamlines procedures and makes nominal adjustments to enhance service and payments.

## Subpart A

### Subpart A Changes, General

March 2005



### Subpart A Changes General

- Updated references.
- Main changes were in § 24.2 – *Definitions*:
  - New title.
  - New numeric format.
- Acronyms added.

A - 13

**Notes:** The rest of this presentation will identify the subparts and go over the general nature of the changes made. Legal references and numerical changes inserted in the rule to match new locations will not be addressed during this training session unless the content of the section or paragraph changed.

For Subpart A only § 24.2 which contained the definitions was revised.

The new title *Definitions and Acronyms*

The definitions were numbered for ease of reference.

The list of Acronyms is not all inclusive. See the rule at § 24.2(b)

## Subpart A Changes § 24.2(a) Definitions

March 2005



### Subpart A Changes § 24.2(a) Definitions



- (11) Dwelling site.
- (14) Household income.
- (17) Mobile home.
- (33) Waiver Valuation.

A - 14

**NOTES:** New definitions are in your Workbook

(11) Dwelling site. The term dwelling site means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, § 24.2(a)(11).) This will insure more accurate computations of replacement housing payments when a dwelling is located on a larger than normal site or when mixed use properties are involved.

(14) Household income. The term household income means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (See appendix A, § 24.2(a)(14) for examples of exclusions to income.) Federal, State and local agencies requested clarification in this area to administer relocation assistance benefits in a more fair and equitable manner.

(17) Mobile home. The term mobile home includes manufactured homes and recreational vehicles used as residences. (See appendix A, § 24.2(a)(17)). Provides guidance on the types of mobile homes and manufactured housing that are acceptable as comparable replacement dwellings for those displaced from mobile homes. This change was also driven by HUD's definition and clarification of a mobile home for its programs. The new definition intends to capture the current state of terminology concerning this term.

(33) Waiver valuation. The term waiver valuation means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions. This definition was added for several reasons. The concept is extensively used in acquisition programs throughout the US. Additionally, the definition clarifies that it is not an

appraisal and thus not subject to the Appraisal Foundation's USPAP and certain URA appraisal requirements.

## Subpart A Changes § 24.2(a) Definitions

March 2005



### Subpart A Changes § 24.2(a) Definitions

- (6) Comparable replacement dwelling.
- (8) Decent, safe, and sanitary.
- (15) Initiation of negotiation (ION).
- (23) Salvage value.
- (29) Unlawful occupant.
- (30) Utility costs.

A - 15

**NOTES:** Revised portions of these definitions are covered in the Workbook.

(6) New provision added dealing with subsidized housing programs § 24.2(a)(6)(ix)

(8) Revised wording to emphasize use of local codes

(15) Revised and added language to cover when ION occurs when property is being acquired without threat of eminent domain – voluntary transactions.

(23) Revision clarifies that the value of this item is based on the sale of the item to a knowledgeable buyer (no relocation assistance). This includes items for reuse as well as items where components of an item can be recycled.

(29) Revised term and changed definition slightly to reference “unlawful occupant” instead of “unlawful occupancy” and to remove the term “squatter” as it may be offensive and is not necessary to the definition. Changes simplify definition without changing it’s meaning.

(30) Made definition more specific to provide for ‘electricity, gas, other heating and cooking fuels’

## Eligibility Conditions

March 2005



## Eligibility Conditions

### § 24.2(a)(9)(ii) Persons not displaced:

- (D) Temporary relocation:
  - In Appendix A, defined as less than 12 months.
  - If more than 12 months, eligible displacees.
- (K) Unlawful occupant:
  - Advisory assistance can be provided.
- (M) American Dream Down Payment Initiative (ADDI).

A - 16

**NOTES:** Another revised definition relates to eligibility.

Key provision is (D) where supplemental information in the appendix identifies that temporary relocations extending beyond 12 months trigger full relocation benefits for the displaced person.

This situation is encountered as rehabilitation projects and also when persons have been evacuated for environmental cleanup.

In (K), additional wording adds that an Agency can provide advisory services to unlawful occupants.

“Unlawful occupant is a person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. **An Agency, at its discretion, may consider such person to be in lawful occupancy.**” **This definition gives an agency the option to provide all benefits.**

Item (M) is new and refers to tenants required to move as the result of the sale of the dwelling they occupy to a person receiving down payment assistance under the American Dream Down Payment Initiative – SEE Pub. L. 108-186. Also please reference participant workbook example/definition of this requirement in Subpart A.

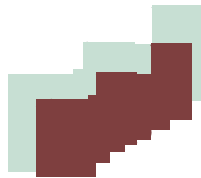
## Eligibility Conditions (cont.)



March 2005



## Eligibility Conditions (Cont.)



### § 24.206 Eviction for cause:

- Language added in Appendix A.
- Protects displaced persons legally evicted for project advancement.
- Displaced persons still eligible for benefits.

A - 17

**NOTES:** Eviction for Cause was proposed to be moved to Subpart A, and reworded, but the proposed change was not adopted so there was little changed in the rule. **Appendix A was supplemented** with a provision that states:

**Appendix A § 24.206 “Eviction for cause. An eviction related to non-compliance with a requirement related to carrying out a project (e.g., failure to move or relocate when instructed, or to cooperate in the relocation process) shall not negate a person's entitlement to relocation payments and other assistance set forth in this part.”**



## Explanation/Example

### **SUBPART A Reference Section 24.2 (a)(9)(ii)(M)**

#### **American Dream Downpayment Initiative (ADDI)**

As the result of Federal statutory authority, Federal Agencies have determined that a tenant being displaced from a dwelling being purchased by a person utilizing funds from the American Dream Down Payment Initiative, can not attribute their displacement to a Federal action. The displaced tenant is therefore ineligible to receive relocation assistance under 49 CFR Part 24 as follows:

#### **§24.2 (a)(9)(ii)(M)**

Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Down Payment Act (Pub. L. 108-186; codified at 42 U.S.C. 12821).

This same interpretation would apply to a subsequent displacement resulting from the procurement of replacement housing or a replacement business site by an eligible relocatee using relocation assistance funds from a Federally funded project.

## Subpart B Changes, Real Property Acquisition



March 2005



### Subpart B Changes Real Property Acquisition

- Waiver of appraisal.
- Appraisal requirements.
- Appraiser and review appraiser qualifications.
- Review appraiser responsibilities.
- Agency responsibilities:
  - Appraisal assignments.
  - Written offers.

A - 18

**NOTES:** Key changes to be discussed during Subpart B presentation will include

1. §24.102(c)(2)(ii) – Waiver of appraisal process – if Agency determines an appraisal is not necessary.
2. § 24.103 – Criteria for appraisals
3. § 24.103(d)(1) – Appraiser and review appraiser qualifications
4. § 24.104 – Responsibilities of the Review Appraiser

## Subpart C Changes, General Relocation Requirements



March 2005



### Subpart C Changes General Relocation Requirements

- Relocation planning.
- Business interviews.
- Procedures.
- Relocated material.
- Language revisions.

A - 19

**NOTES:** This subpart deals with relocation planning and the early detection of relocation problems. Material dealing with businesses based on the 2002 National Business Relocation Study, influenced some of the changes in this subpart. The study specifically noted the need to do a site availability study and conduct in-depth interviews with potential displaced businesses to detect problems and seek viable solutions before displacement.

## Subpart D Changes, Moving Cost and Related Expenses



March 2005



### Subpart D Changes Moving Cost & Related Expenses

- Material reorganized.
- List of eligible expenses expanded.
- Dwelling self move administration.
- Searching expense increased.

A - 20

**NOTES:** The subpart received a major reorganization but much of the material was unchanged.

Most changes occurred regarding nonresidential expense items, including the addition of a new section of three eligible related moving expense categories (formerly listed under reestablishment) that now can be reimbursed on an actual cost basis with no monetary cap.

Residential self moves were clarified to prohibit use of bids or estimates to set reimbursement.

Searching expense increased from \$1,000 to \$2,500 and eligible items added pertaining to reimbursement of the owner's items to attend zoning or permit hearings and to negotiate the purchase/lease of a replacement property.

## Subpart E Changes, Replacement Housing Payments



March 2005



### Subpart E Changes Replacement Housing Payments

- Low income calculation.
- Owner rental option.
- Comparable replacement housing.
- Less than 90-day tenants.

A - 21

**NOTES:** Subpart E received several adjustments regarding computation and eligibility for housing supplements.

## Subpart F Changes, Mobile Homes

March 2005



### Subpart F Changes Mobile Homes

- New Definition.
- Reorganized.
- Eligibility Determination emphasized.
- Benefit options.

A - 22

**NOTES:** Subpart F was substantially reorganized to improve clarity and ease of use.

## Subpart G, Certification

March 2005



### Subpart G Certification

- No substantive changes.

A - 23

**NOTES:** There were no changes to this subpart, except for the updating of factual references.

## Appendices

March 2005



### Appendices

- An extension of the rule.
- Appendix A:
  - New material.
  - Examples.
  - Revised for clarity.
- Appendix B:
  - Reporting form simplified.

A - 24

**NOTES:** As part of the new definitions you will note that several make reference to Appendix A. The Appendix to the rule is a legal extension of the rule and has equal weight as the main section of the rule.

Appendix A was revised to provide detail and examples to amplify the key changes made throughout the regulations.

Appendix B – the form for submitting activity was simplified. Submission requirements unchanged.

**INSTRUCTOR NOTES:** It needs to be emphasized that appendix A has the same force and effect under the law as the main sections of the regulation per FHWA Office of Chief Counsel.



## Subpart B

### 49 CFR Part 24 Subpart B, Applicability



## 49 CFR Part 24 Subpart B

*Applicability*

## Applicability of Subpart B

March 2005



### Applicability of Subpart B

- Applies to all direct Federal acquisition.
- Federally assisted acquisition exceptions in § 24.101(b) (1)-(5), major exceptions are:
  - Voluntary or willing seller transactions.
  - Non-eminent domain acquisitions.

B-2

**NOTES:** One of the more important changes: If a Federal agency is (directly) buying real property for itself, Subpart B applies.

Direct Federal Acquisition – refers to property acquisitions undertaken directly by a Federal Agency with its staff or a contractor in the employ of the agency using agency authorized funds for that purpose. *For example, Department of Interior Agencies would have to use Subpart B whether it is a voluntary transaction or not.* This is a significant change for Federal agencies' Direct Federal Acquisitions.

Federally Assisted Projects – NO SIGNIFICANT CHANGE. These are carried out by state, local or other project sponsors with authorized funding from the Federal agency. In this case, the work is undertaken by the staff or contractors of the state, local or other sponsor and expenditures are billed to and reimbursed by the Federal funding agency. The Federal funding agency has an oversight or stewardship responsibility for the work undertaken by its partners to ensure compliance with all federal governing laws and regulations. Compliance with the URA and its implementing regulations is a condition of receiving federal assistance.

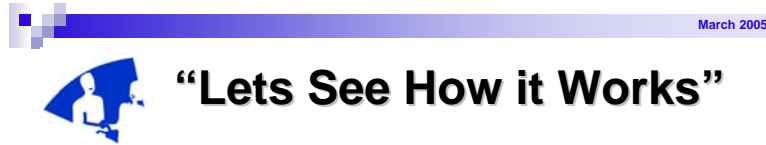
Requirements for federally assisted acquisitions are unchanged with one exception: owners must now be given an early notice in writing. Previously, early interest/likelihood of acquisition notices may have been given at public hearings or meetings. The final rule also requires that a written notice be given to voluntary transaction owners about what the agency is doing/intends to do.

In the second bullet, there are 3 additional situations that can be encountered involving Federally assisted acquisitions. These are seldom encountered and the 2 on the screen are the most common situations.

- Acquisition from a Federal or State agency without eminent domain authority
- Acquisition from a member of a cooperative where member has agreed as a condition of membership to provide property without charge
- Programs of the Tennessee Valley Authority (TVA) or Rural Utilities Service (RUS).

**IMPLEMENTATION:** Please reference “Applicability Decision Chart” on the next slide and page.

## Let's See How it Works, Applicability Decision Chart



### 49 CFR § 24.101 – Subpart B Applicability Decision Chart

B-3

**NOTES:** See following slides for this chart and also refer to the Informational Guide.

This chart provides an overview of the applicability requirements of Subpart B given various funding arrangements and circumstances under which property will be acquired. You should be able to fit the program you are working on into one of the situations described in the chart.

**INSTRUCTOR NOTES:** For interactivity ask the student to volunteer where their program(s) fit.

**IMPLEMENTATION:** This will have an impact on Federal Agencies direct federal programs using voluntary (willing seller) transactions as Subpart B is now fully applicable.

## Explanation/Example

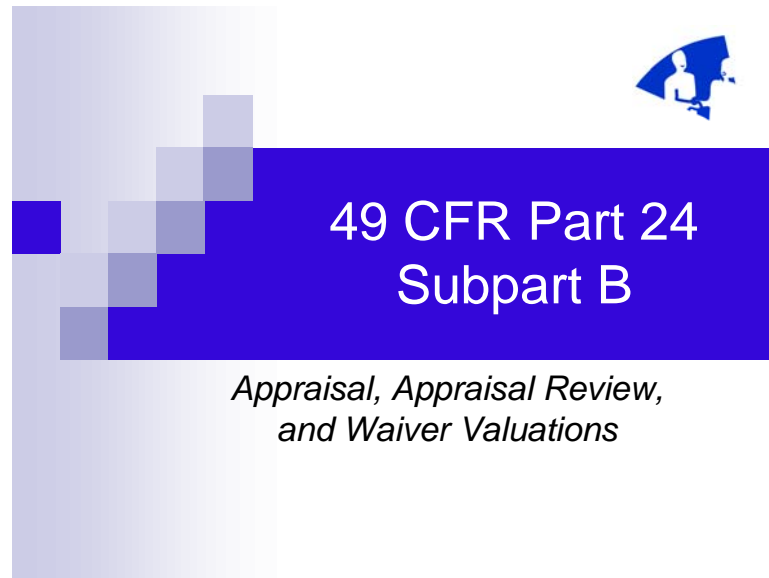
SUBPART B Reference § 24.101

Applicability Decision Chart

Buyer	Conditions	Subpart B Compliant?
Federal Aid or Grant Recipient	<b>DOES</b> have Eminent Domain authority, but will meet ALL conditions: <ul style="list-style-type: none"> <li>• No specific site</li> <li>• Not part of a project</li> <li>• Will <b>NOT USE</b> Eminent Domain <sup>1,2</sup></li> <li>• Inform owner of market value <sup>1</sup></li> </ul>	<b>NO</b>
	Does <b>NOT HAVE</b> Eminent Domain Authority and will not have any way to use to Eminent Domain <ul style="list-style-type: none"> <li>• Inform owner no Eminent Domain <sup>1,2</sup></li> <li>• Inform owner of market value <sup>1</sup></li> </ul>	
	The acquisition is from a government agency	
	The acquisition is by a co-op from a member	
	Assistance is from TVA or RUS	
Federal Agency (except TVA or RUS)	Will use Eminent Domain, if necessary	<b>YES</b>
	Will NOT use Eminent Domain	<b>YES</b>  Must inform owner no eminent domain 1, 2
Federally-assisted projects	<i>§ 24.102, § 24.103, § 24.104 &amp; § 24.105 apply to the greatest extent practicable under State Law, with any exceptions noted and approved in assurance required by § 24.4</i>	

<sup>1</sup> In writing    <sup>2</sup> Owners are not displaced persons, but tenants may be

## 49 CFR Part 24 Subpart B, Appraisal, Appraisal Review, and Waiver Valuations



**NOTES:** This section of the training covers material related to Subpart B – Real Property Acquisition. The first part of this section deals with valuation items, including appraisal, appraisal review and waiver valuation option. The second part of this section deals with offers, negotiations, and settlement-related items.

**IMPLEMENTATION NOTE: Q.:** The final rule preamble section on Subpart B states that FHWA decided to retain the term “fair market value” throughout Subpart B except for § 24.102(b)(1) and (5). Yet the term “market value” appears in the final rule in a number of other places, including §§ 24.102(d), 24.102(j), 24.103(b), and 24.105(c). Which is correct?

**A.** The Preamble is correct. The FHWA will issue a technical correction in the near future to resolve the problem by changing the term to “fair market value” in all parts of the rule except § 24.102(b)(1)-(5).

## Key Topics

March 2005



### Key Topics

- Appraisal waiver and waiver valuation.
- Appraisal and appraisal review.
- URA appraisal *requirements*.
- USPAP *standards*.
- Qualifications.
- Responsibilities.

B-5

**NOTES:** Waiver valuation (formerly appraisal waiver) § 24.102(c)(2)(ii) and Appendix A

Appraisal requirements § 24.103(a)

Appraisal review requirements § 24.104(a), § 24.104(b), and § 24.104(c)

URA appraisal requirements is found in § 24.2(a)(3) and § 24.103(a) and Appendix A.

USPAP standards is found in § 24.103(a) and Appendix A

Appraiser/review appraiser qualifications § 24.103(d) and Appendix A

Agency responsibilities § 24.103(a)(1) & (2)

Appraiser/review appraiser responsibilities is found in § 24.103(a) and § 24.104(a) and (b)

## New Definition

March 2005



### New Definition

#### § 24.2(a)(33) Waiver valuation.

“The term waiver valuation means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions.”

B-6

**NOTES:** This is a new definition, but not a new concept. that was added to the rule in Subpart A. The definition is related to the provisions in Subpart B that can be used when the agency determines that an appraisal is not required. The determination is based on considerations related to the complexity of the appraisal problem and the expected value considering the available real estate market data in the area.

Stated another way, if the appraisal problem is uncomplicated and has a low value, the concept of waiver valuation may be applicable if the agency options to do it.

## Determining Necessity for an Appraisal

March 2005



### Determining Necessity for An Appraisal

§ 24.102(c)(2) Appraisal not required if:

- Owner is donating property.
- Agency determines the appraisal problem is:
  - Uncomplicated.
  - Low value.

B-7

**NOTES:** The rule provides two instances when an appraisal is not required:

1. When the owner is donating his/her property. This is conditional, and is based on the owner giving the agency a release from having to prepare an appraisal.
2. Based on an agency determination.

For an agency to make the determination that an appraisal is not required, the agency must first decide if it will use the procedure on uncomplicated and low-value properties. The use of the appraisal waiver procedure is both an opportunity to save time on low-value and uncomplicated acquisitions and it is also the agency's responsibility to be sure that knowledgeable personnel are available to make the determination of when a waiver valuation will be prepared. A major consideration in this determination is whether there is sufficient local market data (comparable sales) available which is essential to support such a valuation. If there is not good data available, the waiver valuation should not be used.



## Valuation Streamlining

March 2005



## Valuation Streamlining

- Define low value up to \$10,000:
  - Increased from \$2,500.
  - Option available for up to \$25,000:
    - Federal funding Agency must approve.
    - Owner must be offered option for appraisal.
- Prepare a waiver valuation.

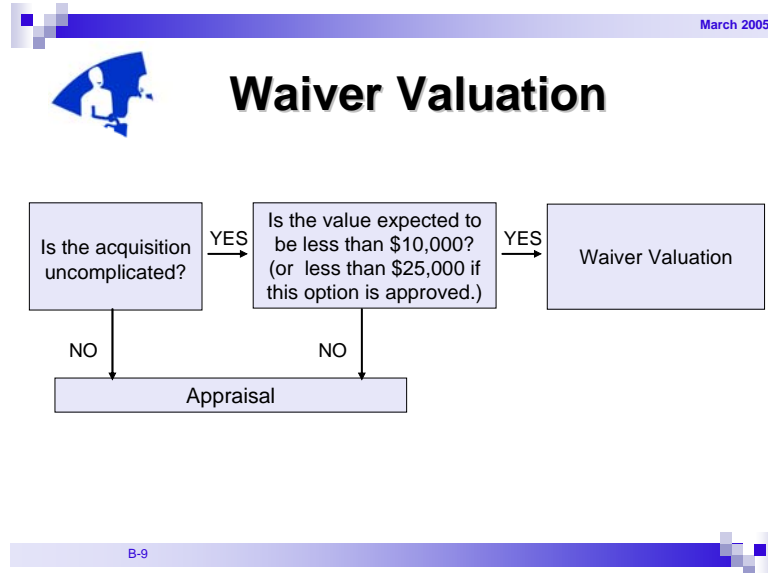
B-8

**NOTES:** Under § 24.102(c)(2)(ii), the agency has an option to determine whether an appraisal is necessary. If certain criteria are met, a simpler approach can be used. Although the prior regulation provided such use, it was limited to \$2,500, while the new rule allows agencies to use any amount up to \$10,000. This has to be both a business decision and one related to the market conditions in the project area. The maximum amount does not have to be used; any amount up to \$10,000 could be adopted by the agency and included in its procedures.

The waiver of appraisals for amounts more than \$10,000 is covered in § 24.102(c)(2)(ii)(C). That provision creates a programmatic option up to \$25,000. It requires approval by the federal funding agency and the owner must be offered the option for an appraisal. Implementation of the owner's consent to forgo an appraisal could be placed in the offer which is acknowledged by the owner. These practices should also be included in the agency's procedure manual if the agency uses a limit over \$10,000.

For FHWA, federal funding agency approval will be done by local division offices according to FHWA policy criteria issued on January 18, 2005. Note that this is not a waiver in accordance with § 24.7.

## Waiver Valuation



**IMPLEMENTATION:** Federal Agencies or Project Sponsors would need to:

- Decide if they want to use this option
- If already using the procedure, they can adjust the maximum amount per the revised regulation if desired.
- If not presently using this concept, then procedures consistent with the regulation would need to be developed.
- Decide whether programmatic option of up to \$25,000 will be used and obtain approval to do so, including appropriate revision of operating procedures.

## Waiver Valuation (cont.)

March 2005



## Waiver Valuation (cont.)

- Prepared by knowledgeable person.
- Not an appraisal.
- Review not required.
- Owner accompaniment not required.
- Agency responsible for:
  - Basis for preparing.
  - Establishing just compensation amount.

B-10

### NOTES:

URA = Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

USPAP = Appraisal Foundation's Uniform Standards of Professional Appraisal Practice.

The waiver valuation is not an appraisal. The URA Rule appraisal requirements and USPAP standards relating to appraisals do not apply. An appraisal review is not required, but within the agency, there must be a process to assure that the basis for not preparing an appraisal is appropriate and that the waiver valuation amount is used to determine what is believed to be just compensation.

The basic concept is that the valuation will be prepared by a knowledgeable person who is aware of the general market values in the project area. It is not intended that the person preparing the valuation be an appraiser. The process is designed to free the appraisal staff to concentrate on more complex and difficult appraisal problems. Additionally, the URA requirement for offering the owner the opportunity to accompany the appraiser does not apply to waiver valuations. This will further streamline the process.

There is no specific requirement for "approval" of the waiver valuation (reviewing either the valuation itself or the decision to use a waiver valuation.) Like an appraisal, the waiver valuation is input to the (separate) determination of the just compensation offer. Also, the waiver valuation (or an appraisal) need not directly represent what is believed to be just compensation. Both estimate fair market value, from which the Agency determines the just compensation offer (which may not be less than the appraised/valued amount).

## Criteria for Appraisals

March 2005



### Criteria for Appraisals

- Reference: rule and Appendix A  
**§ 24.103**
- This rule defines appraisal requirements for Federal and federally assisted real property acquisition.
- URA requirements and USPAP standards.
- This rule is consistent with USPAP.

B-11

**NOTES:** **49 CFR 24.103** defines the Federal appraisal requirements for Federal and federally-assisted real property acquisition. No other resource, including USPAP, is appropriate for Federal and federally-assisted acquisition appraisal requirements.

The rule update is the first since USPAP was issued. To avoid confusion with USPAP, the new rule has adopted *requirements* as the reference to Uniform Act appraisal criteria in order to avoid confusion with USPAP *Standards Rules*.

Despite the fact that Uniform Act requirements are separate from USPAP standard rules, the two are consistent. In 1990 FHWA wrote the Standards Board asking for a review of 49 CFR Part 24 appraisal and appraisal review requirements vis-à-vis USPAP. The Appraisal Standards Board replied on October 25, 1990 that they had reviewed 49 CFR 24.103 and 24.104 and determined they were consistent with provisions and standards rules in USPAP. Since that time there has been no change in 49 CFR 24.103 and 24.104 that would be inconsistent with USPAP.

So what does “consistency” mean and how significant is it? Let’s take a look:

## Criteria for Appraisal (cont.)



March 2005



## Criteria for Appraisal (cont.)

URA - Regulatory requirements, found at § 24.103.

USPAP } Secondary, non regulatory  
UASFLA } resources on URA projects.

B-13

**NOTES:** UASFLA = Uniform Appraisal Standards for Federal Land Acquisition, published by the Interagency Land Acquisition Conference, chaired and managed by the US Department of Justice. It is fundamentally an appraisal manual for federal eminent domain appraisal preparation and federal court testimony. These are appraisal standards utilized by the Department of Justice and other federal agencies when processing appraisals for direct federal acquisitions.

UASFLA is primarily relevant to direct federal projects where the federal agency has adopted the standard and is undertaking the acquisition directly. UASFLA is not specifically applicable to federally assisted projects undertaken by state and local agencies. Most states will have their own body of law as to what is compensable in eminent domain and have definitions of “market value” that vary from the federal ground rules. Additional rules will differ among the states and federal government on such things as how appraisals are undertaken for partial acquisitions.

The UASFLA may however, provide useful insight to States on issues of compensability and valuations encountered when doing acquisitions under eminent domain. It may be particularly helpful if a state follows the “strict before and after” federal rule for partial acquisitions. The USASFLA has no legal standing (like the URA and this Regulation do) – It is essentially, a publication of the US Department of Justice.

URA = Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

USPAP = Appraisal Foundation’s Uniform Standards of Professional Appraisal Practice.

## Working to Maintain Consistency



March 2005



### Working to Maintain Consistency

- URA appraisal requirements.
- USPAP standards.

B-12

#### URA OR USPAP

**NOTES:** In March of 1992, the Federal Office of Management and Budget issued OMB Bulletin 92-06 which, in Attachment A, instructed all Federal Agencies to, "...prepare real estate appraisal and appraiser review reports in accordance with written and approved Agency standards consistent with the Uniform Appraisal Standards of Professional Appraisal Practice (USPAP) sections I – II ..."

Note the use of the word "consistent" in the OMB Bulletin: Government-wide regulations already in place, that is 49 CFR 24.103 and 104, already met the test.

So just what does "consistent" mean? It in fact recognizes there may be operational differences, but that both USPAP and Uniform Act rules meet the Webster's definition of consistent, which is "showing steady conformity to character, profession, belief or custom." The fundamentals of appraisal are clearly embraced by both.

There are, however, operational differences. Perhaps the clearest is expressed by the Uniform Act requirement to disregard the influence of the project on value.

While the URA requirements and USPAP Standards are consistent, neither can supplant the other. Each provision is neither identical or interchangeable. Appraisals performed for Federal or federally-assisted real property acquisition must follow the URA requirements. An appraiser encountering conflicting requirements between URA and USPAP, may be able to work within USPAP standards via the USPAP's Jurisdictional Exception Rule<sup>1</sup>, where applicable. The Jurisdictional Exception Rule states if any part of the USPAP Standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.

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<sup>1</sup> For a complete description of Jurisdictional Exception Rule refer to 2005 Edition USPAP Jurisdictional Exception Rule.

## Agency Responsibility

March 2005



### Agency Responsibility

- Acquiring Agency has the responsibility to assure that appraisals:
  - Are relevant to its program needs.
  - Reflect established and commonly accepted Federal and federally-assisted program appraisal practice.
  - As a minimum, comply with both:
    - Definition of appraisal in §24.2(a)(3).
    - Five requirements in §24.103(a)(2).

B-14

**NOTES:** The Federal or Federally-assisted agency obtaining an appraisal must take an active role in the appraisal process to ensure that its needs are efficiently met. The goal is to obtain the needed appraisal product without overachieving. The agency has a greater role in the public acquisition appraisal process than is typical in the private sector. The agency must specifically ensure that the assignment (for a staff appraiser) or the contract (for a contract appraiser) address the agency's unique needs, as well as assuring compliance with URA requirements. This responsibility carries over to the development of the appraiser's scope of work. The agency role is discussed further in Appendix A.

## Appraisal Assignment

March 2005



## Appraisal Assignment

- Reference: rule and Appendix A

### § 24.103(a)

- Agency is to participate in:
  - Defining the appraisal problem.
  - Developing the scope of work.
- Identify personal property.

B-15

**NOTES:** § 24.103 (a) (2)(i) requires the appraiser must identify “personal property,” while the appendix adds that “real property” also be identified. Please see the example personalty/realty report in the Informational Guide.

Appendix A, § 24.103(a)(1): “The appraisal report requires identification of the items considered in the appraisal to be real property, as well as those identified as personal property.”



## Appraisal Realty/Personalty Report

March 2005



### Appraisal Realty/Personalty

- New Emphasis:
  - Personal Property – § 24.103(a)(2)(i).
  - Real Property – Appendix A § 24.103(a)(1).

B-16

**NOTES:** From an implementation standpoint, it is critical to achieve responsible allocation of what is realty what is personalty. The allocation will drive what is acquired vs. relocated. If this is not sorted out correctly, duplicate payments can result from situations where items acquired and owned by the agency are relocated at an additional expense. The determination of realty/personalty items as part of the appraisal process ensures proper handling of such items. The result is fair compensation and/or reimbursement of relocation expenses to the owners of the respective items. Legal counsel should be consulted if there are any questions as to the status of a given item.

An on-site meeting of the appraiser and relocation staff is essential to accomplishing this process. The result is then included in the appraisal report and serves as a guide in this area for the balance of the acquisition process.

**IMPLEMENTATION:** This will require a revision in the appraisal assignment to staff or contract specifications for fee appraisers to ensure inclusion of this information in the appraisal report. Additionally, if an onsite meeting with a relocation specialist is required, it should be specified as well.

Acquiring agencies will need to revise appraisal assignment and procurement procedures to accommodate this requirement. It will add work items for both the appraiser and relocation specialist , but this early coordination will save time, effort and cost as the acquisition/relocation phase is implemented.

Reference sample realty/personalty report in Informational Guide.

## Explanation/Example

### SUBPART B Reference § 24.103(a)(2)(i)

#### Sample of a Realty/Personalty Report

In this example, a business tenant occupies rented space with a typical commercial lease which permits the tenant to make improvements but not retain ownership of those improvements. The property is a simple bare-walled structure that the tenant built out to meet their needs. Due to a specific need, the tenant installed a supplemental heating and cooling system and obtained a lease amendment to cover that particular item. The building is used as a workshop and has improvements such as partitions, counter space installed as work areas and additional electrical outlets spread along the work area to power hand tools.

Members of the State DOT from the appraisal and relocation sections, the property owner and the business owner (who is a tenant in the property) met to prepare the realty/personalty report. The property has a multi-year lease that provides that any real estate improvements made by the tenant are the property of the real estate owner. The lease also has a “condemnation clause” prohibiting the tenant from claiming any of the settlement or condemnation award if the property is appropriated by a governmental authority. The lease has an amendment written to provide that the tenant-installed supplemental heating/ventilation/air conditioning system remains the property of the tenant who has the obligation to remove that system at the termination of the lease.

If there is a question about the personalty/realty status of a specific items, legal counsel familiar with applicable state law should be consulted.

<u>Items of Realty</u>	<u>Owner</u>
Land	Property Owner
Building	Property Owner
Landscaping	Property Owner
Improvements	Property Owner
Drop Ceilings	Property Owner
Interior Partitions	Property Owner
General Lighting	Property Owner
56’ of Work Counters	Property Owner
Supplemental Electrical Service	Property Owner
Supplemental HVAC	Business Tenant

<u>Items of Personalty</u>	<u>Owner</u>
Power Floor Scrubber	Business Tenant
Inventory – Parts	Business Tenant
Workstation Tools	Business Tenant
Prazi Metal Lathe	Business Tenant
4 Filing Cabinets	Business Tenant
Work in Progress	Business Tenant

## Scope of Work

March 2005



### Scope of Work

- Written statement.
- Developed together by appraiser and Agency.
- Defines general parameters of work.
- Prepared before appraisal work starts.
- May be updated as needed

B-17

**NOTES:** The scope of work is a written statement agreed upon by the appraiser and the agency describing the appraisal work the appraiser is to do.

It should be developed cooperatively by the assigned or contract appraiser and an agency official who is competent to both represent the agency's needs and respect valid appraisal practice.

The scope of work should describe what the agency and the appraiser each are to do, and what is the mutually expected outcome of the assignment/contract.

Although this is a revised approach from what was required in the past relative to abbreviated and detailed appraisal formats, actually greater flexibility is afforded. Under the new rule, once a “scope of work” has been developed, existing appraisal formats that agencies have in use can continue to be utilized if they fit the scope that has been developed.

Existing guidance for developing an appraisal scope of work has been compiled and is included in the Informational Guide for further clarification on this issue.

**BACKGROUND:** The scope of work concept is coming into wide acceptance. Not only does this Rule adopt it, but The Appraisal Foundation is working on scope of work in the USPAP context. Their latest Exposure Draft (2/15/2005) proposes to define Scope of Work as: “the type and extent of research and analysis in an assignment.” Their draft Scope of Work Rule proposes “An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.” The draft further comments: “Scope of work includes, but is not limited to: • the extent to which the property is identified, • the extent to which tangible property is inspected, • type and extent of data researched, and • the type and extent of analysis applied to arrive at opinions or conclusions.” The

draft also comments, “Appraisers have broad flexibility and significant responsibility in determining the scope of work . . . “ We agree with and support these statements, and anticipate continuing convergence with USPAP as we and the Appraisal Standards Board “flesh out” the scope of work concept.

## Scope of Work

March 2005



### Scope of Work

- Match the URA and URA rule requirements to the appraisal problem, covering:
  - The definition of “appraisal” in the URA.
  - Specific rule requirements in § 24.103(a)(2) and § 24.103(b).

B-18

**NOTES:** The scope of work defines the specific parameters of the appraisal, which should be based on the requirements in this rule, especially the definition of “appraisal.”

The scope of work should consider the specific requirements in § 24.103(a)(1) through § 24.103(a)(5), and § 24.103(b), and address each as appropriate.

## Scope of Work

March 2005



### Scope of Work

- Should address:
  - Purpose/function of appraisal.
  - Definition of estate to be appraised.
  - Definition of fair market value, if applicable.
  - Assumptions and limiting conditions.
  - § 24.103(a)(1)-(5) requirements.

B-19

**NOTES:** The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised (if it is fair market value, include its applicable definition), and the assumptions and limiting conditions affecting the appraisal.

The scope of work should consider the specific requirements in the URA definition of “appraisal,” § 24.103(a)(1) through § 24.103(a)(5), and § 24.103(b), and address each as appropriate.

## Scope of Work

March 2005



### Scope of Work

- May include:
  - Data search parameters.
  - Analysis approaches.

B-20

**NOTES:** It should include parameters for the data search and identification of the technology, including approaches to value, which are to be used to analyze the data. These are areas where a knowledgeable Agency can provide input to assure it gets what it really needs without going overboard on appraisal work.

## Explanation/Example

### SUBPART B Reference Section §24.103(a)

#### Appraisal Scope of Work

The following criteria from the Uniform Relocation Act (URA) and the Uniform Standards of Professional Appraisal Practice (USPAP) should be considered in the development of a scope of work for an appraisal assignment on a federally funded project. Additionally, the Uniform Appraisal Standards for Federal Land Acquisition UASFLA and or other agency statutory or regulatory requirements would be considered as appropriate.

#### URA – Appraisal Requirements

The appraiser's Scope of Work must also acknowledge compliance with URA Appraisal Requirements as required by the funding agency if the appraisal is for a Federal or federally assisted project.

- 1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem.
- 2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, comply with the definitions of appraisal in §24.2(a)(3) and the five following requirements<sup>1</sup>: (See Appendix A, §24.103 and §24.103(a).)
  - a) An adequate description of the physical characteristics of the property being appraised. A statement of the known and observed encumbrances, if any, title information, location, zoning, present use and analysis of highest and best use and at least a 5-year sales history of the property.
  - b) All relevant and reliable approaches to value consistent with Federal and federally-assisted program appraisal practices.
  - c) 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.
  - d) A statement of 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 property.
  - e) The effective date of valuation, date of appraisal, signature, and certification of appraisal.

The above noted requirements are the basic Appraisal Requirements for Federal and federally-assisted programs or projects. Additionally, Agencies may enhance or expand on them, and there may be specific project or program legislation that references other appraisal requirements.

#### **Competency and the Scope-of-Work Decision—**

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<sup>1</sup> For a complete description of the Uniform Act appraisal requirements please refer to §24.103(a)(2)(i)-(v)



## URA

The URA regulations also address the competency issue in section §24.103(d). In addition to state licensing requirements, the appraiser's qualifications must be consistent with the scope of work for the assignment.

## Appraiser and Review Appraiser Qualifications



March 2005



### Appraiser and Review Appraiser Qualifications

- Reference: rule and Appendix A  
**§ 24.103(d)(1) - § 24.104**
- Considerations/Factors:
  - Competency.
  - Experience.
  - Education.
  - Training.
  - Certification/licensing.
  - Professional designations.

B-21

**NOTES:** The term “review appraiser” was adopted for consistency throughout the new rule, and emphasized as a separate specialty apart from the appraiser. Specifically, review appraiser qualifications, along with appraiser qualifications, are addressed as needing to be consistent with the appraisal scope of work.

Qualifications now specifically include “review appraiser” and are delineated.

## Appraiser and Review Appraiser Qualifications (cont.)



March 2005



### Appraiser and Review Appraiser Qualifications (cont.)

- Agency responsibility:
  - Set criteria on minimum qualifications.
  - Assure qualifications match the Scope of Work. This requires Agency involvement in the assignment process.
  - Contract (fee) appraisers must be state licensed/certified.

B-22

**NOTES:** Information on the agency role in qualifications can be found in § 24.103(d)(1) and § 24.104.

**INSTRUCTOR NOTES:** Emphasize importance of 2nd sub bullet. Requires knowledgeable agency involvement in the selection process.

## Appraisal Review

March 2005



### Appraisal Review

- Reference: rule and Appendix A
- § 24.104(a) to (c)**
- Review appraiser responsibilities:
    - Examine analysis and presentation of data.
    - Assure all appraisal requirements are met.
    - Meets definition of appraisal in § 24.2.

B-23

**NOTES:** The updated rule more completely addresses the appraisal review function. The requirements should not be that new to the transportation community because it reflects practices already in use there. The terms may be new, but the approach has not changed. § 24.104(a) of the updated rule specifically addresses what the review appraiser is to examine. This slide highlights the criteria against which the review appraiser evaluates an appraisal. These are the requirements in § 24.103, Criteria for Appraisals.

**IMPLEMENTATION:** Agency procedures would require revision to add this item of responsibility for review appraisers.

## Appraisal Review (cont.)

March 2005



### Appraisal Review (cont.)

- Reference: rule and Appendix A  
**§ 24.104(a)**
- Review appraiser – required actions:
  - Appraisal is recommended.
  - Accept appraisal as complying with all requirements.
  - Not accept – including reasoning.
- If authorized, staff review appraiser could do one or both:
  - Approve the appraisal.
  - Determine just compensation amount.

B-24

#### **NOTES: The review appraiser has three options in reporting the review:**

1. Recommend it for approval as the Agency's approved appraisal of the fair market value.
2. Accept the appraisal as complying with all requirements. This option should be used when there are multiple appraisals on a property and more than one meet all requirements. If there are multiple appraisals, the review appraiser can accept two (or more) and recommend one.
3. The review appraiser should find an appraisal "not acceptable" only after he or she has been unsuccessful in working with the appraiser to obtain an acceptable appraisal.

The Agency is given the option of authorizing the staff review appraiser, as part of the review, to approve the appraisal (as the basis for the Agency's establishment of the offer of just compensation), as well as the authority to develop and report the amount believed to be just compensation.

The above actions should not be significantly different from the process now followed, except that the review appraiser is now to more formally categorize the assessment of each report.

For most Agencies, the review appraiser is authorized to approve the appraisal. This is a meaningful term because the URA refers to the "approved appraisal" as being necessary for supporting the determination of the amount believed to be just compensation.

There is, however, no direct requirement that a reviewed and accepted Agency appraisal automatically be the approved appraisal, even if it is recommended for approval. An example situation would be where the property owner's appraisal would be determined after Agency appraisal review to be the approved one.

## Review Appraiser Roles

March 2005



### Review Appraiser Roles

- During review:
  - Consult with appraisers to clarify report conclusions.
  - May need to prepare an independent valuation that meets § 24.103 requirements.
- Prepare a written report on results of reviews.
- May be an in-house consultant on appraisal.

B-25

**NOTES:** The review appraiser has a critical and powerful role in the acquisition process. It can be characterized as a two way street: representing the Agency's needs and interests to the appraisal process, and representing (and sometimes defending) legitimate appraisal practice to the Agency.

If the initial appraisal submitted for review is not acceptable, the review appraiser is expected to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development of an acceptable appraisal.

In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.

However, if the review appraiser is unable to obtain an acceptable appraisal from the appraiser, the rule allows the review appraiser to develop an independent approved or recommended value. In doing so the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. The review appraiser may independently present and/or analyze market data. In doing so, though, the review appraiser must comply with § 24.103 appraisal requirements.

When a review appraiser develops an independent value, that independent value also becomes the approved appraisal of the fair market value for Uniform Act purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes an independent value.

Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may participate in making appraisal assignments to fee and/or staff appraisers and be involved in devising the scope of work statements. They may also be mentors and technical advisors, especially on Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.



## 49 CFR Part 24 Subpart B, Offers, Negotiations, and Settlements



### **NOTES:**

Title Slide the starting point for covering the non-appraisal related changes in Subpart B.



## Key Topics

March 2005



## Key Topics

- Offer of just compensation.
- Contacting owners.
- Administrative settlements.
- Exceptions.
- Conflict of interest.

B-27

### NOTES:

Most of the changes here are just refinements of existing policies.

## Just Compensation

March 2005



### Just Compensation

- Agency official must determine the just compensation offer based on:
  - Waiver valuation.
  - Approved appraisal.
- Staff review appraiser may be authorized by Agency to perform this function.

B-28

#### NOTES:

Just compensation is an Agency responsibility. While this is not a new concept, it does apply to the waiver valuations. In addition, the Agency may authorize a staff review appraiser or other Agency official to approve the just compensation amount.

The critical point is that it must be done in-house by the acquiring Agency. Contract staff may not make the determination. The Agency must authorize a staff review appraiser or other Agency official to approve the just compensation amount.

Waiver valuations are valid alternative inputs to the determination of the offer of just compensation. When a waiver valuation is used, the just compensation offer still needs to be determined independently.

## Contacting Owners

March 2005



### Contacting Owners

- Initiation of Negotiation (ION):
  - New trigger for tenant eligibility.
  - § 24.2(a)(15)(iv).
  - Appendix A, § 24.2(a)(15).
- Notices and offers to owner must be “in writing” according to § 24.102(b).

B-29

#### NOTES:

Appendix A, was revised as follows:

§ 24.2(a)(15)(iv) Initiation of negotiations (Tenants.) Tenants that occupy property that may be acquired amicably, are entitled to the following [no use of eminent domain per § 24.101(b)(1) through (5)] :

- Informed as to eligibility for relocation assistance (i.e., potential eligibility at initiation of negotiations)
- Notification when they become fully eligible, if the property is acquired from owner
- Notification that they are no longer eligible for relocation benefits if no agreement is reached with the owner to purchase the property

If a tenant is not readily accessible, as the result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

In the context of the second bullet above, where options are being used, this notice would be triggered by a written agreement that binds the acquiring agency to purchase the property from which a tenant would be displaced. That is the agency and the property owner are subject to legally enforceable commitments to proceed with the purchase.

FHWA is strengthening requirements for written notices and that now includes willing sellers. The early notice of interest in acquiring property is also required in writing per § 24.102(b).

**IMPLEMENTATION:** Will require potentially additional contacts with tenants occupants as the new procedures are followed.

## Administrative Settlements

March 2005



## Administrative Settlements

- Reference: rule and Appendix A

### § 24.102(i)

B-30

### NOTES:

Administrative settlements refer to agreements reached where the just compensation amount is exceeded and is justified based on considerations other than the appraised value. Examples may involve risk of trial, recent court awards, appraisal/value elements that are hard to estimate, etc. This listing of possible justifications was deleted and only “trial risks” added. The reason for this change was that it would be impossible to create an all inclusive list that would cover every possible justification for an administrative settlement.

Again, this is not a new provision, but the itemization of possible justifications of a settlement was eliminated. Now the agency can consider anything relevant and provide the information on which the settlement was judged reasonable, prudent, and in the public interest. Also, there was a change to the documentation requirement.

Appendix A, § 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 review 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.

## Conflict of Interest

March 2005



### Conflict of Interest

- Reference: rule and Appendix A  
**§ 24.102(n)**
- Requirements – appraisers, review appraisers, waiver valuation preparers:
  - Shall not have any interest in property.
  - Shall not be subject to influence or coercion regarding valuation.
  - May be authorized to act as a negotiator where valuation role is for acquisitions <\$10,000.

B-31

**NOTES:** Waiver valuation preparers and review appraisers are now specifically included in conflict of interest provisions.

Also added is the provision that these individuals be protected from inappropriate pressure in performing their valuation duties.

The new rule also raised the maximum limit amount for appraising/valuing and negotiating to \$10,000.

The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. This particular provision § 24.102(n)(2) is part of an emphasis in the new rule to assure the valuation process is not inappropriately influenced.

The use of an appraiser/value preparer to negotiate is not required but an option available to Agencies. It does not require approval, but if adopted, it should be a standard policy and applied with consistency.

**IMPLEMENTATION:** As noted above, preparer of waiver valuation would need to certify of having no interest in the property under appraisal. Existing required certifications should suffice for appraisers and review appraisers.

## Conflict of Interest

March 2005



### Conflict of Interest

- Reference: rule and Appendix A  
**§ 24.102(n)(2)**
- Person functioning as negotiator cannot supervise or formally evaluate:
  - Appraisers.
  - Review appraisers.
  - Persons performing waiver valuations.
- Federal funding Agency may waive.

B-32

**NOTES:** “Person functioning as a negotiator” refers to the person or persons immediately involved in making the initial offer and conducting initial negotiations. It is not intended to cover everyone who may eventually be included in settlement negotiations.

The rule includes a new provision allowing the Federal funding Agency to waive supervisory prohibition provisions if compliance would create a hardship for the acquiring Agency.

This waiver is intended for acquiring Agencies with very small staffs where it may not be possible to have complete separation of functions.

**INSTRUCTOR NOTES:** Does this provision create a problem for Agencies? Who will be the knowledgeable person used to prepare waiver valuations and how will they be removed from being supervised by negotiators. Isn't the negotiation section where many of the current preparers of valuation documents housed in many organizations?

Applies principally to staff positions, but intended to cover any situation that may foster coercion.

“Waiver” is programmatic – not a waiver of the rule under § 24.7 and can be considered where this may create a hardship on Agencies with a small staff.

## Conflict of Interest, Let's See How it Works



March 2005



### **Conflict of Interest “Let's See How it Works”**

**Reference examples of acceptable  
and non acceptable  
organizational/supervisory  
arrangements**

B-33



## Explanation/Example

### SUBPART B Reference § 24.102(n)

#### Supervision of Appraisers

The following are examples of organizational structures that do and that do not comply with new regulatory requirements. (Reference § 24.102(n) and Appendix A.) The Federal funding agency may waive the organizational structure requirement if it would create a hardship for the acquiring agency due to insufficient staffing.

There are three elements of this requirement to minimize the risk of fraud while allowing agencies to operate as efficiently as possible.

- Neither the appraiser, review appraiser or valuer (waiver valuation) shall have any interest in the property being valued.
- No person functioning as a negotiator can supervise or formally evaluate the performance of any appraiser or review appraiser. This relates directly to the following examples.
- The same person can, however, prepare a value estimate and negotiate that acquisition, if the valuation amount is \$10,000 or less. (Or not to exceed \$25,000 if a programmatic waiver is approved.)

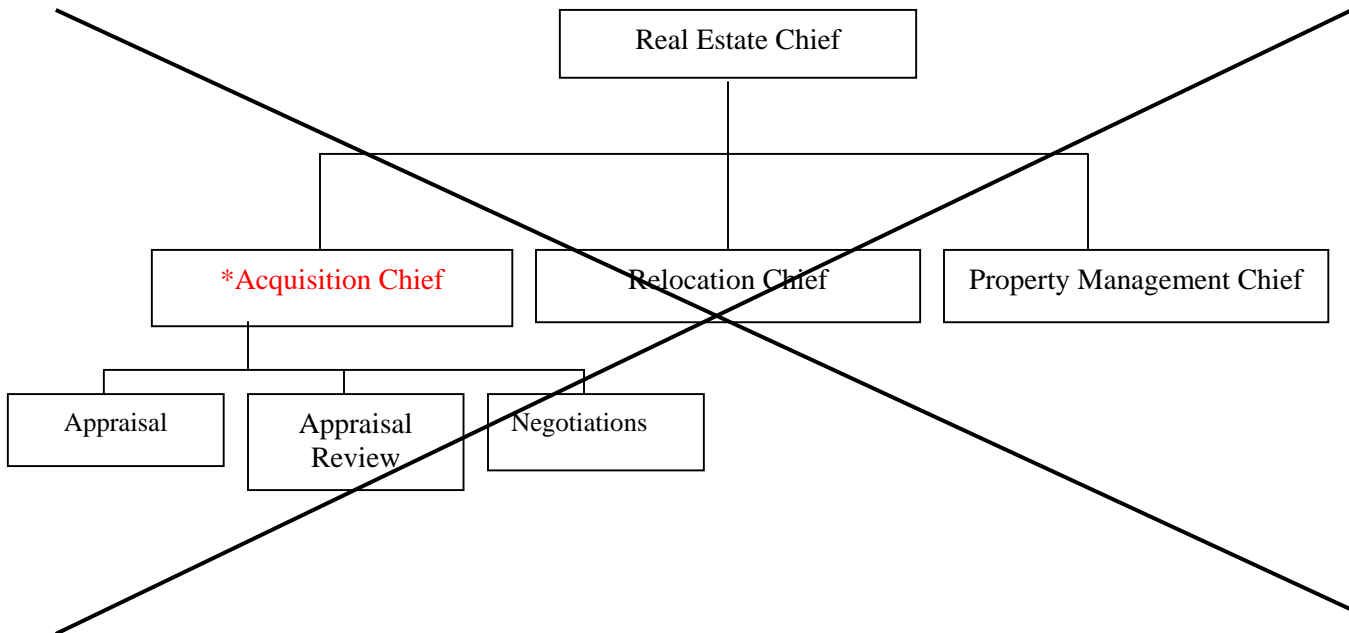
The following examples will deal with the requirement described in the second bullet referenced previously.



## Subpart B Reference § 24.102(n)

### Supervision of Appraisers

#### Example 1



(Does **not** comply)

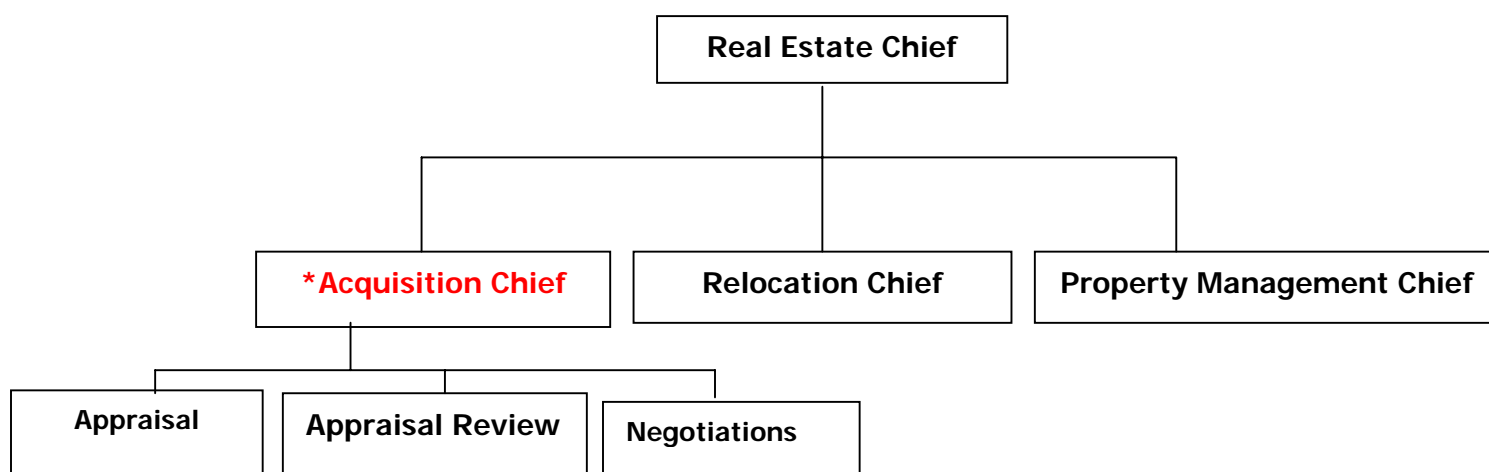
**The person in the position of Acquisition Chief is actively involved on a frequent basis in the day-to-day decisions-making about acquisition negotiations; AND/OR directly negotiates with property owners; AND supervises and performs either 1st level or 2nd level performance evaluations of subordinate staff including appraisers and review appraisers. May approve administrative settlements, and may establish agency policy governing negotiations and acquisitions.**

**This arrangement would not be consistent with the new regulatory requirements.**

## Subpart B Reference § 24.102(n)

### Supervision of Appraisers

#### Example 2



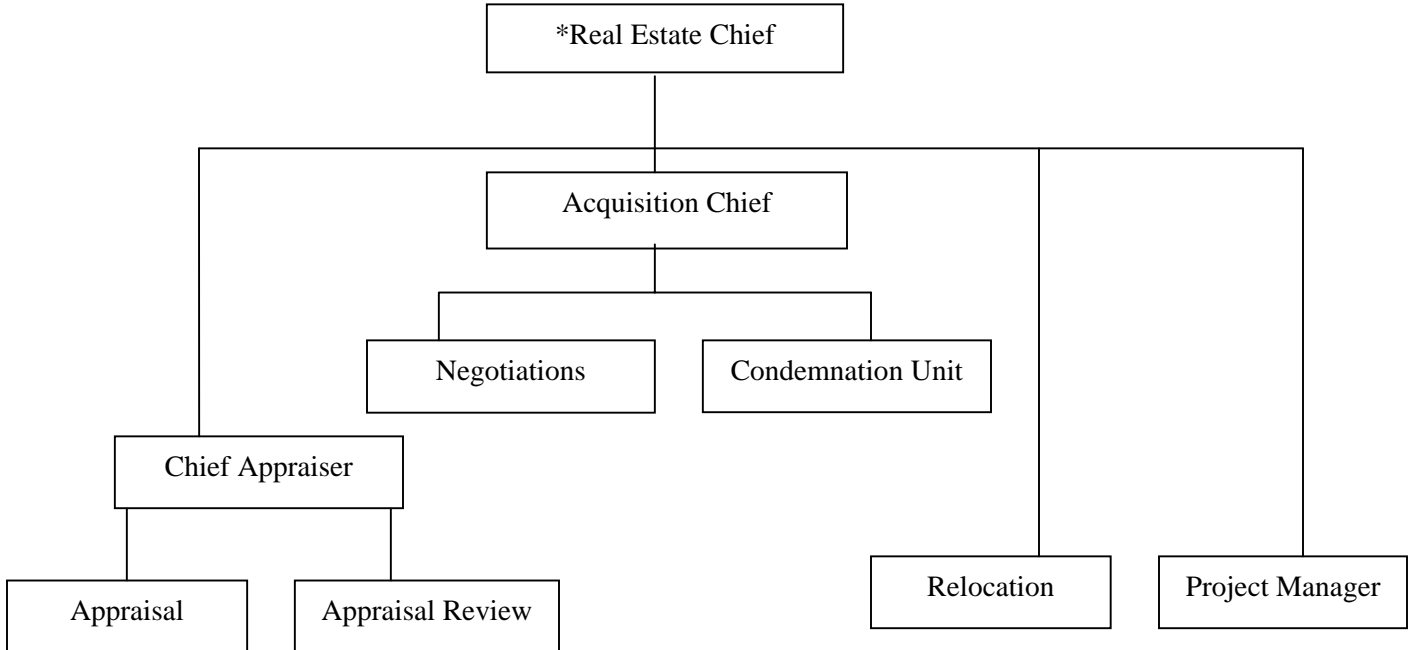
(Complies with new requirement)

- The person in the position of Acquisition Chief is NOT actively involved on a frequent basis in the day-to-day decisions-making about acquisition negotiations; AND/OR SELDOM directly negotiates with property owners; AND supervises and performs either 1st level or 2nd level performance evaluations of subordinate staff including appraisers and review appraisers. May approve administrative settlements, and may establish agency policy governing negotiations and acquisitions.
- This arrangement would be consistent with the new regulatory requirements.

### Subpart B Reference § 24.102(n)

#### Supervision of Appraisers

#### Example 3



(Complies with new requirement)

\* Person in this position is not routinely involved in negotiations activity and has no direct responsibility for the supervision and performance evaluations of appraisers and review appraisers.

## Subpart C

### 49 CFR Part 24 Subpart C, General Relocation Requirements



## 49 CFR Part 24 Subpart C

*General Relocation  
Requirements*

## Key Topics

March 2005



### Key Topics

- Relocation planning.
- Advisory services.
- Payments and benefits.

C - 2

## Relocation Planning



March 2005



### Relocation Planning

- Business and residential requirements are now parallel in:
  - Estimating, searching replacement sites.
  - Interviewing.
  - Planning emphasis.

C - 3

**NOTES:** In the prior rule, the emphasis was on replacement housing sites. Nothing has changed regarding the residential survey of available housing sites or the residential interview requirement. However, the new rule, in § 205(a)(4), requires an estimate of available business sites. The new item on relocation interviews is also related to businesses, with the addition of six specified items to be covered, at the minimum, in the nonresidential relocation interview.

## Relocation Planning – Nonresidential



March 2005



### Relocation Planning – Nonresidential

- *National Business Relocation Study.*  
[www.fhwa.dot.gov/realestate/nbrs2002.htm](http://www.fhwa.dot.gov/realestate/nbrs2002.htm)
- § 24.205(a)(4) Availability of replacement business sites:
  - Impacts of any shortage
  - Complexity and length of moving process.
  - Impact on small financially constrained businesses

C - 4

**NOTES:** The new rule emphasizes planning. In § 205(a)(4), an estimate of available business sites and some preliminary planning to identify and develop solutions is required.

FHWA's 2002 *National Business Relocation Study* provides a resource to understand the background of this provision and the one that follows relating to the business interview.

## Relocation Planning – Nonresidential (cont.)



March 2005



### Relocation Planning – Nonresidential (cont.)

- § 24.205(c)(2)(i) Personal interview:
  - (A) Site requirements.
  - (B) Outside specialists.
  - (C) Personalty/realty issues.
  - (D) Time required to vacate.
  - (E) Site availability.
  - (F) Advance payment needs.

C - 5

**NOTES:** For nonresidential relocation (primarily businesses), the personal interview requirement is expanded to include, at a minimum, a specified six items. (Please refer to the workbook for additional topical suggestions for consideration during the business interview.) The rule reads as follows:

“This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

- (A) The business's replacement site requirements, current lease terms, other contractual obligations, and the financial capacity of the business to accomplish the move.
- (B) Determination of the need for outside specialists in accordance with § 24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
- (C) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property. \* This ties back to Subpart B requirement for determination in appraisal. Note to instructor: refer class to earlier discussion of this in the appraisal requirements in Subpart B, § 24.103(a)(2)(i). The appraiser is to identify realty/personalty items and Appendix A.
- (D) An estimate of the time required for the business to vacate the site.
- (E) An estimate of the anticipated difficulty in locating a replacement property.
- (F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.”

The new interview provisions are solely in the rule with no additional language in Appendix A. Again, many of these came from the *National Business Relocation Study* published by FHWA in 2002.



## Let's See How it Works



March 2005



### **“Let's See How It Works”**

**Please refer to example entitled:**

**Suggested Information to be Obtained  
During a Business Interview**

C - 6



## **Explanation/Example**

### **SUBPART C Reference § 24.205(c)(2)(i)**

#### **Suggested Information to be Obtained During a Business Interview**

##### **What is the type and general characteristics of the business displaced?**

- Manufacturing: What type of product? What is the source of materials?
- Wholesale: What is the product mix? What are the transportation requirements?
- Retail: What is the type of business? Does it have a specialty clientele?
- Service business: What is the service? Who are the clientele? What is the competition?

Ownership / Structure – sole proprietorship, family business, partnership, corporation, or institution?

##### **General**

- Employment; how many employees
- Number of years in operation
- How long at current location
- Other locations
- Payroll
- Gross sales

##### **Issues related to the replacement site**

Facility: parking, zoning, building type, special building requirements, taxes, utility requirements

Preferences of owner: location, price, terms, future expansion capability

- Other considerations
- Street accessibility for walk-in trade or delivery
- Rail access
- Access to specialized utilities; high consumption, large disposal requirements
- Landscaping
- Structural capacity
- Traffic requirements

##### **Other issues to be discussed during the interview process**

Do you anticipate losses created by interruption of the business? If so, how can we mitigate?

Do you anticipate costs to adapt a new location to your current requirements?

What other increased costs are anticipated, such as taxes, insurance, utilities, transportation, etc.?

What are the anticipated problems with zoning and licensing at a replacement location?

How can loss of clientele be minimized?

What are the anticipated problems with zoning and licensing at a replacement location?

How can loss of clientele be minimized?

How long will the move take?

What special services may be required to relocate and set up in new location?

What general area do you plan to relocate to?

Do you plan on upgrading or modernizing your equipment?

Is there equipment that you own that you do not need to move to the replacement site?

## Advisory Services – Residential



March 2005



### Advisory Services– Residential

- Decent, safe, and sanitary standard relies on local codes.
- Subsidized housing program requirements may apply.
- Transportation offered to **all** displaced persons.

C - 7

**INSTRUCTOR NOTES :** Remind the audience that the new regulations greatly enhance pre-displacement business planning, but there are also several new aspects relevant to residential displacement in this subpart

The definition for “decent, safe, and sanitary” was revised slightly and linked closely to local codes and ordinances.

The subsidized housing program requirements work and contrast with URA benefits for private housing.

The requirement to offer transportation was always in place, but it now is clarified that it applies to **all** displaced persons, not just handicapped or elderly. This can be accomplished in various ways, including providing cab fare, etc.

## Decent, Safe, and Sanitary

March 2005



### Decent, Safe, and Sanitary

- Lead-based paint:
  - § 24.2(a)(8).
  - Appendix A.
- Bedrooms needed:
  - § 24.2(a)(8)(iv).
- Physical disability:
  - § 24.2(a)(8)(vii).
  - Appendix A.

C - 8

**NOTES:** Lead-based paint is NOT in the rule but is addressed in Appendix A as a public policy consideration. The guidance in Appendix A refers to local code requirements as they pertain to the existence of lead-based paint and the health and safety of the public. If such local code requirements exist, they must be honored. Even if local law does not mandate adherence to such standards, it is strongly recommended that standards be considered as a matter of public policy.

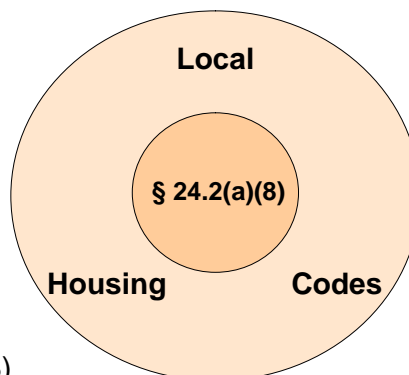
The number of bedrooms needed relates to how many individuals can share a bedroom and the requirement for separate bedrooms for children of different genders. Again, local housing codes govern if this issue is addressed; in the absence of any code requirement, the policy of the displacing agency will be followed.

A minor revision highlights that any physical disability (not just one that requires a wheelchair) needs to be accommodated. The concept of this change is that all relevant disabilities or special needs (e.g., vision, hearing, little people, and displaced persons with service animals) must be considered.

## Decent, Safe, and Sanitary (cont.)



### Decent, Safe, and Sanitary (cont.)



Primary: Local Codes

Secondary: § 24.2(a)(8)



**NOTES:** The primary determinates of housing standards are local codes, both occupancy codes and housing standards codes. Absent a local code, or when the local codes are less protective than the regulatory definition of DSS, then the provisions of § 24.2(a)(8) apply as a minimum. The "core" of the DSS standard is the definition of Decent, Safe and Sanitary contained in § 24.2(a)(8), but the real "meat" of the standard is the local codes.

## Relocation Assistance Advisory Services



March 2005



### Relocation Assistance Advisory Services

Discussions should address:

- Availability of subsidized housing.
- § 24.205(c)(2)(ii)(F) Government assisted housing may limit size of replacement dwelling.
- § 24.2(a)(6)(ix) Relative duration of government-assisted housing versus the limited 42-month URA rental assistance payments.

C - 10

**NOTES:** The wording of the advisory services related to new comparable replacement dwellings addresses pointing out the short-term nature of the URA benefits against the longer term nature of those for housing subsidies.

This applies to persons being displaced from subsidized housing or to persons who qualify for and opt to occupy a subsidized unit. The replacement unit may not be the same size as the displacement dwelling due to criteria of the subsidized housing program.

The second point pertains to the expected duration of government-assisted housing and relocation under the URA where rental assistance is limited to 42 months. The availability of a large lump-sum payment may encourage some displaced persons to forego government-assisted housing.

## Let's See How it Works



March 2005

### **“Let's See How It Works”**

**Please refer to example entitled:**

**Comparability Requirements –  
Government Assisted Housing**



C - 11



## Explanation/Example

### SUBPART C § 205(c)(2)(ii)(F)

#### Comparability Requirements – Government Assisted Housing

The following two examples demonstrate the Effect of Program Standards Affecting the Criteria of “Comparable” for Governmental Subsidized Housing

Example One: Sam Allen lives alone in a three bedroom apartment which is in public housing. When the building is acquired in a Federally assisted project and Mr. Allen is required to move, Section 8 will only provide for a one bedroom replacement since his children no longer reside in the property. The one bedroom replacement is assumed to meet all tests for comparability due to the programmatic requirements of the subsidy program.

Example Two: John and Mary Rose live in a 3-bedroom apartment without any subsidy. They are displaced, and they obtain a Section 8 certificate for government-assisted housing. The Section 8 program limits their replacement housing unit to a 1-bedroom.

Information on how to handle cases involving government-assisted housing is available from HUD at [www.hud.gov](http://www.hud.gov).

## No Waiver of Relocation Assistance or Benefits



March 2005



### No Waiver of Relocation Assistance or Benefits

- § 24.207(f) No soliciting waivers of relocation assistance or benefits.

C - 12

**NOTES:** A new requirement was added in § 24.207(f) and in the related item in Appendix A to prohibit Agencies from proposing or requesting that displaced persons waive their rights to relocation assistance or benefits. The purpose is to make sure displacees understand their benefits and are not pressured into foregoing those benefits. The relocation Agency may not suggest or request a waiver. A displaced person may refuse the benefits on his/her own initiative.

## Expenditure of Payments



March 2005



### Expenditure of Payments

- § 24.207(g) Expenditure of relocation funds by displacee does not constitute Federal financial assistance.

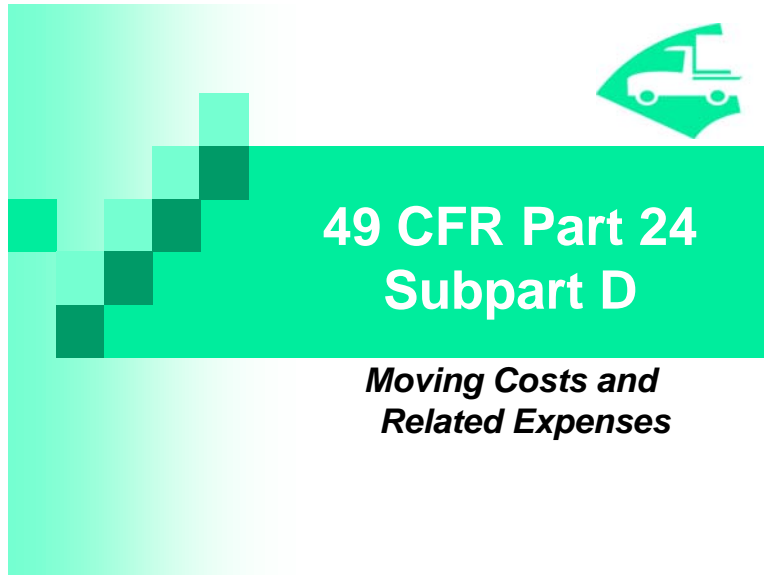
C - 13

A new requirement was added in § 24.207(g) to codify the longstanding practice and understanding that relocation benefits are not to be considered Federal financial assistance. This is an important distinction in situations where replacement properties are acquired by displaced persons.

**EXAMPLE:** The action of a displaced person renting a replacement dwelling does not cause the present occupant of that replacement dwelling to gain eligibility for any relocation benefits. Likewise, the construction of a new home or business by a displaced person does not require NEPA or other actions because relocation funds are used in this effort.

## Subpart D

### 49 CFR Part 24 Subpart D, Moving Costs and Related Expenses



**NOTES:** Some changes explained in the NPRM preamble did not carry forward to the final rule preamble. This is usually the case where no comments were received during the NPRM on proposed changes. If you want to reference the complete background concerning a change, you should retain the preamble documents from both the NPRM and the final rule. The NPRM and final rule may be found at FHWA's website on the uniform act page: [www.fhwa.dot.gov/realestate/ua/index.htm](http://www.fhwa.dot.gov/realestate/ua/index.htm).

**INSTRUCTOR NOTES:** Acknowledge that the reorganization may be challenging for long-time practitioners, while newer users may not have the same adjustment period.

## Key Topics



March 2005



## Key Topics

- Subpart reorganization.
- Residential self-moves.
- Moves of personal property only.
- Calculating actual direct loss.

D-2

**NOTES:** The various types of moving requirements were reorganized in this section of the regulation. The revised regulations clarify, add additional options, and reclassify certain expenses resulting in enhanced payments, particularly for nonresidential displacements. The new rule also allows a combination of moving methods in certain cases, which will facilitate both residential and nonresidential moves.

The overall goal of the reorganization and benefit change was to make the moving cost provisions easier to use and more practical in the field. For example, there is sufficient regulatory flexibility to permit agencies to pay both a fixed schedule move and an actual cost move – covering different items of personalty on the same residential parcel.

## Key Topics (cont.)



March 2005




## Key Topics (cont.)

- Nonresidential moves.
- Low value/high bulk items.
- Moving personal property – various methods for:
  - Residential.
  - Commercial.

D-3



## Reorganized Support



March 2005

Old Rule	New Rule
§ 24.301	§ 24.301 Expanded
§ 24.302	§ 24.302 Reworded
§ 24.303	§ 24.303 NEW*
§ 24.304	§ 24.304 Unchanged
§ 24.305	§ 24.305 New # only
§ 24.306	§ 24.306 New # only
§ 24.307	

\*No longer subject to a \$10,000 re-establishment cap.

D-4

### **NOTES: § 24.301 Payment for actual reasonable moving and related expenses.**

The key changes in reorganizing this subpart were placing in § 24.301 all eligible and ineligible moving cost lists previously in § 24.303 (eligible) and § 24.305 (ineligible). The section was reworded to describe the eligible costs based on the origin of the moves. The reorganization was intended to make the section easier to read. In addition, one item formerly in re-establishment was moved to § 24.301. This pertained to reimbursement of fees for licenses, permits, and certifications.

### **§ 24.302 Fixed payment for moving expense – residential moves.**

There was a slight rewording in § 24.302 relating to the Fixed Residential Moving Cost Schedule maintained by FHWA.

### **§ 24.303 Related nonresidential eligible expenses.**

This new section contains three expense items that had formerly been listed under § 24.304. This can be a significant change for businesses as the items are no longer subject to the \$10,000 limit. The three items moved from the previous section on re-establishment expenses were the following:

- Utility connections from R/W.
- Professional services prior to purchase/lease of replacement.
- Impact fees and one-time assessments.

### **§ 24.304 Re-establishment expenses – nonresidential moves.**

Four expense items were moved from this section: one was placed in § 24.301 and three were placed in the new § 24.303. This effectively stretches the \$10,000 limit for eligible relocations.

### **§ 24.305 Fixed payment for moving expenses – nonresidential moves.**

This section was renumbered from the old § 24.306 but otherwise remains the same.

**§ 24.306 Discretionary utility relocation payments.**

This section was renumbered from the old § 24.307 but otherwise remains the same.



## Residential Self-Moves



March 2005



### Residential Self-Moves

- § 24.301(b) Moves from a dwelling.
- § 24.301(c) Moves from a mobile home.
- Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.
- Labor and equipment rates limited to that paid by commercial movers.

D-5

**NOTES:** There has been continuing confusion regarding self-move payments to the occupants of residential properties. There is no provision permitting the payment of lump sum (regardless of how it is determined) other than the fixed schedule amount. A residential self-move must be supported by receipts or proof of expenditure for all eligible items. Hourly rates must be commensurate with those typically charged in the moving industry.

The change in the rule relating to residential moves is the prohibition added to the rule regarding use of bids to set the reimbursement limit for residential self-moves. This was undertaken to clarify requirements for self-moves. The use of bids or estimates resulted in inflated costs and claims for reimbursement that were not well documented.

The revised regulations establish three methods for a residential displacee to move:

Commercial Mover

Actual Cost supported by receipted bills with costs limited to rates paid by commercial movers for labor and equipment, or

The Fixed Residential Moving Cost Schedule

## Residential Move Options § 24.301(B)



March 2005



### Residential Move Options § 24.301(B)

- Commercial Move.
- Actual cost based on Receipted Bills.
- Fixed Residential Moving Cost Schedule.
- Combination.

D-6

**NOTES:** There are four potential ways for the displaced occupant of a residence to accomplish the move of personal property.

## Let's See How it Works



March 2005



## “Let's See How It Works”

Please refer to examples entitled:

**Residential Self Move**

D-7



## Explanation/Example

### SUBPART D § 24.301(b) and (c)

#### Residential Self Move Examples

**Example One:** Robert and Sally Link will be moving soon due the acquisition of their home in a Federally assisted highway project. The DOT has obtained two estimates of the move and presented those to the Link's. The low estimate is \$8,500 and the high estimate is \$9,000. The Links have indicated that they would be agreeable to accepting the low bid and performing the move themselves. Can the DOT pay a lump-sum amount for a self move to a residential displacee?

The DOT may not make such a payment unless supported by adequate proof of expenditures for the work necessary. In other words, the self-move for residential occupants is dissimilar to that permitted for businesses.

**Example Two:** A dwelling is acquired that has an above ground swimming pool which is personal property. The occupant could elect:

- 1) A fixed payment from the moving cost schedule for the residence, plus an actual cost move for the pool; or
- 2) An actual cost move for all of the personal property.

## Moves of Personal Property Only

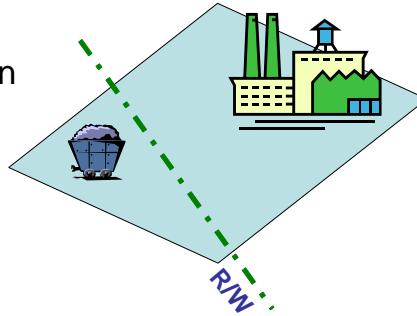


March 2005



### Moves of Personal Property Only

- New § 24.301(e) covers situations in which the main business or dwelling is not required to move but the owner's or tenant's "stuff" is.



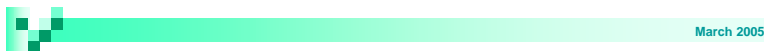
D-8



**NOTES:** The new § 24.301(e) Personal property only. Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm, or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) as well as (g)(18) of this section. (See also Appendix A, § 24.301(e).)

The illustration shows a factory and stockpiled materials within the right of way. It could also depict a house with a shed and materials out back that fall inside the required right of way. This modification addresses a situation in the old rule where this circumstance was not covered specifically in the case of an acquisition from a residential property. The clarification covers that situation for both residential and nonresidential displacements where the residence or business is not acquired and thus there is no resulting displacement of either a residence or a business.

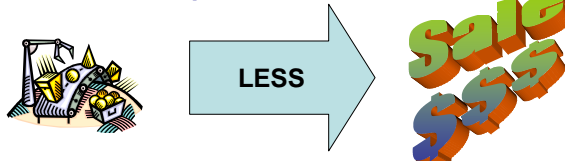
## Actual Direct Loss



### Actual Direct Loss

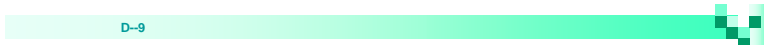
§ 24.301(g)(14) Payment is the lesser of:

- (i) **Market value in place “as is.”**



or

- (ii) **Estimated cost to move and reconnect “as is.”**



**NOTES:** This is not a new eligible expense, but it is one of the sections that was reworded to provide greater clarity. Additional guidance was also added in Appendix A. The key additions were “in place” and “as is.” In the estimated move cost example, that will mean no code required additions or other changes that do not currently exist at the displacement site. The example on the following slides explain the clarifications.

**INSTRUCTOR NOTES:** Work through the example with the participants as time permits.

## Let's See How it Works



March 2005



### **“Let's See How It Works”**

**Please refer to example entitled:**

**Working with Tangible Property Loss**

D-10



## Explanation/Example

### SUBPART D Reference § 24.301(g)(14)

#### Working with Tangible Property Loss

The Maxtop Company has a large drill press that is personal property. Compute the eligible moving cost under each of the following scenarios. The press is worth about \$2500 installed in place, and has about a \$1500 auction value.

If Maxtop chooses to move the drill press: Cost to haul \$200; cost to take-down (including water and electrical disconnects) \$180; set-up with all utilities and floor mounting \$250. The drill press will also require an enhanced personnel safety barrier (code required) at the new location. This modification will add another \$400 to the set-up cost. Allowable moving cost is \$1030

1. Assume Maxtop has modified its operation and no longer has a need for the drill press. They will not move it and want to apply for the Tangible Property Loss payment. They have arranged to sell the machine for \$400. Allowable moving cost: \$\_\_\_\_\_

*This is also the lesser of two calculated numbers:*

1. *The in-place value less sale,  $\$2500 - \$400 = \$2100$*
2. *The moving cost (since the item is in use and the business is continuing, it is full move cost, but without code modifications) \$630.*

*So the correct answer is \$630.*

2. Maxtop has another similar drill press in storage that is not currently functional, and they have decided not to move it. They want to claim a Tangible Property Loss payment for this drill press. Allowable moving cost: \$\_\_\_\_\_

*This is also the lesser of two calculated numbers:*

1. *The in-place value as is, \$1500*
2. *The moving cost without reconnect (it is in storage, not connected to utilities), \$200 (hauling)*  
*So the correct answer is \$200.*

*This is the same payment available to Maxtop if they would terminate their business and use the Direct Loss payment to receive compensation for the equipment. A fifty mile move would be assumed in that case.*



## Nonresidential Moves

March 2005



### Nonresidential Moves

- § 24.301(g)(17) Searching expense:
  - Limit raised to \$2,500.
  - New reimbursement items.
- Owner or professional services' time spent for:
  - Obtaining permits and attending hearings.
  - Negotiating the purchase or lease of replacement site.

D-11

**NOTES:** For nonresidential moves, several changes potentially provide increased benefits to assist in making a relocation successful. One is the increased searching expense limit and the two new items added to the nonexclusive list of items that could be reimbursed. The owner's or owner representative's time, based on a reasonable hourly rate, can now be reimbursed for activities directly related to securing the new site. This change does not extend to brokerage fees, etc. Additionally, this does not include fees assessed for permits that can be reimbursed under § 24.301(g)(11).

Note that the list in § 24.301(g)(17) provides examples of qualifying costs, not an all-inclusive list.

## Nonresidential Moves – Searching Expense



March 2005



### Nonresidential Moves – Searching Expense

- Appendix A, § 24.301(g)(17):
  - Examples of reasonable and necessary costs that may be considered for reimbursement.
  - Potential to use waiver under § 24.7 to exceed \$2,500 for situations where warranted based on Federal funding Agency procedures.

D-12

**NOTES:** Appendix A provides more detailed examples relating to searching expense as well as an option for increasing the \$2,500 limit if the reasonable and necessary costs for a particular business relocation justify an increase. The availability is dependent on the Federal funding Agency and its delegation of authority regarding the use of § 24.7.

§ 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.

Refer to Appendix A, § 24.301(g)(17) in the Guide for further implementation details. Eligible activities in this regard could include the following:

- Investigation of replacement sites.
- Owner's or owner representative's time to attend hearings and apply for permits and negotiate purchase/lease of replacement property.

## Low Value/High Bulk

March 2005



### Low Value/High

§ 24.301(g)(18). This is a new addition to the list of eligible moving expenses. Stockpiled sand, gravel, and similar items.



Pay the lesser of ...



D--13

**NOTES:** This new item was added to the list of eligible moving expenses to codify guidance that had been issued on how to handle the low value/high bulk materials encountered when dealing with nonresidential properties. This particular section can also be applied to the new moves of personal property only. Application of this provision is at the acquiring agency's discretion. Generally, if an agency requires the material to be moved by the owner, then this provision should not be used.

## Let's See How it Works



March 2005



### **“Let's See How It Works”**

**Please refer to example entitled:**

**Example of Low Value / High Bulk**



## Explanation/Example

### SUBPART D Reference: § 24.301(g)(18)

#### Example of Low Value / High Bulk

Atkins Hardware has a 500 gallon kerosene tank with a remaining content of 100 gallons. Each gallon of the kerosene sells retail at the time of displacement for \$2. The cost to provide a truck, pump the tank contents, filter it for water and foreign debris, deliver it to the new location is estimated at \$400, which is greater than the materials' value. Delivering new kerosene to the new store location would cost about \$1.45 per gallon for a five-hundred gallon delivery, and about \$1.75 per gallon for a one-hundred gallon delivery.

If the remaining 100 gallons of kerosene were sold at old site:	\$200
If 100 gallons are delivered to the new site:	\$175

The business is entitled to \$175

Note: The bulk supplier will accept a donation of the kerosene located at the old location.

## Nonresidential Moves Related Eligible Expense



March 2005



### Nonresidential Moves Related Eligible Expense

- § 24.303 Actual, reasonable, and necessary costs for:
  - Utility connection from right of way:
    - Not related to personal property.
  - Professional services prior to purchase/lease to determine suitability:
    - Soil testing, feasibility, and marketing studies to determine site suitability.
  - Impact fees and one-time assessments.

D-15

**NOTES:** These are the same expense items that had been part of the re-establishment expenses in § 24.304. As such, they are not new. The difference is that they are now separate from the \$10,000 limitation for total re-establishment costs and are handled individually on an “actual, reasonable, and necessary” basis.

Related to professional services and prior to purchase/lease of a site, certain investigative costs are reimbursable, but these must be reasonable and justified. If a site is rejected, further site testing may be justified at an alternative site following a “due diligence” rationale. The agency should be involved and provide advice in such situations.

Agencies should work with displaced persons to establish acceptable rates for professional services needed to determine site suitability.

**INSTRUCTOR NOTES:** Please reference the “Changes in Business Moving Payments Example”. This graphically illustrates the revised outcomes of moving cost reimbursement to displaced businesses as the result of the changes in Subpart D § **24.301,303, 304**.

## Explanation/Example

**Reference: Subpart D § 24.301,303, 304**

### Changes in Business Moving Payments

This example illustrates the changes in the amounts reimbursed under the old and new regulations, given an analysis of the expenditures for the same business move. (Reference Slide D-15)

<b>Item</b>	<b>Amount</b>	<b>Old rule \$\$</b>	<b>New rule \$\$</b>
Hauling	\$8,500	Move \$8,500	Move \$8,500
Reinstallation	\$5,000	Move \$5,000	Move \$5,000
Insurance	\$1,200	Move \$1,200	Move \$1,200
Direct Loss	\$4,200	Move \$4,200	Move \$4,200
Search	\$3,000	Move \$1,000	Move \$2,500
Utility Connection	\$4,000	Reestab \$4,000	Move \$4,000
Code items	\$5,000	Reestab \$5,000	Reestab\$5,000
Exterior Sign	\$2,500	Reestab \$1,000*	Reestab\$2,500
Impact fee	\$5,000	Reestab \$-0-	Move \$5,000
Modifications	\$3,500	Reestab \$-0-	Reestab\$2,500*
<b>Total payment from DOT</b>		<b>\$29,900</b>	<b>\$40,400</b>

Note: each computed payment contains the maximum reestablishment amount of \$10,000.

\*partial payment due to \$10,000 cap being reached

This example illustrates modifications in the rule regarding changes made by moving certain former business reestablishment payments to a new section 24.303 that has no monetary cap. Section 24.304 with the \$10,000 cap now goes further because fewer potential claims compete for eligible reimbursement under that authority.

Additionally the searching costs limit has been increased as well as eligible costs expanded to included the business owner's time to apply for permits, etc. and to negotiate the purchase of a replacement property.

## Ineligible Moving and Related Expenses



March 2005



### Ineligible Moving and Related Expenses

§ 24.301(h)(12)

- Refundable security and utility deposits

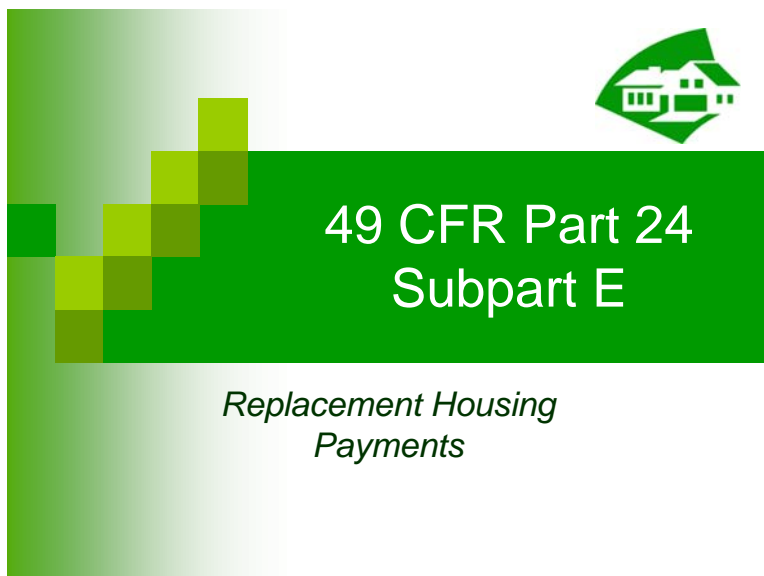
D-16

**NOTES:** The above item was added to the list of ineligible moving expenses.



## Subpart E

### 49 CFR Part 24 Subpart E, Replacement Housing Payments



## Key Topics

March 2005



### Key Topics

- Comparability.
- Computation basics.
- Income considerations.
- Housing payments.

E - 2

**NOTES:** The materials previously talked about some changes in comparability in discussion in Subpart C. This section covers some additional comparability issues.

## Comparability

March 2005



### Comparability

- New definition of dwelling site:
  - In § 24.2(a)(11) – a land area that is typical in size for similar dwellings located in the same neighborhood or rural area.
  - Reason – to clarify what to look for when looking for comparable properties, what to compare the displacement dwelling to.

E - 3

**NOTES:** With regard to computation of a replacement housing payment, one new and two revised definitions are related to the computation process. The new definition in § 24.2(a)(11) for a dwelling site complements the guidance provided for residential carve outs. For additional information, see Appendix A, § 24.2(a)(11).

**EXAMPLE:** A dwelling is located on a site of ten acres. The typical residential sites in the area are one acre. Therefore, one acre would be the “dwelling site.”

## Comparable Replacement Dwelling



- Slightly revised definition in § 24.2(a)(6):
  - Removed “style of living” phrase.
  - Reason – functionally equivalent, but not a “twin”.

E - 4

**NOTES:** The changes to the definition of “comparable replacement dwelling” are minor. The “style of living” phrase was removed because it sometimes led to interpretations that comparable meant identical, even in unique features.

**INSTRUCTOR NOTES:** Style of living has caused difficulties with agencies over-interpreting the meaning. It was not meant to restrict the selection of a comparable dwelling to only those possessing every feature of the subject. Congress intended a reasonable standard for the criteria of comparability and not a duplication of every feature. Thus a home with a wooden dance floor might be comparable to a home without such flooring but with adequate space and room count. Or a dwelling on a “horse property” does not necessarily have to be similarly situated in the replacement. The comparable home should serve the same functional purposes as the subject, but does not need to be a twin. Short summary: Functionally equivalent and substantially the same.

## Comparable Replacement Dwelling



March 2005



## Comparable Replacement Dwelling

- New § 24.2(a)(6)(ix) only applies to persons displaced from government-assisted housing.

E - 5

**NOTES:** New: § 24.2(a)(6)(ix) addresses the occupants of subsidized housing and indicates for them comparable will be determined by the family composition at the time of displacement and the current housing program criteria, not the size of the unit currently occupied.

## What is Income?

March 2005



### What is Income?

- “Household income” applies to base monthly rental calculation.
- “Household income” required under revised § 24.402(b)(2)(ii) to compute replacement housing payment for 90-day, and less than 90-day, occupants.

E - 6

**NOTES:** The revision in the rule when calculating benefits for tenants and occupants of less than 90 days was to limit the use of the 30% average monthly household income to only those situations in which the income falls below the low-income limit established by HUD for the area.

#### Rental Subsidy Computations and Use of Income

The gross income of a tenant is sometimes used in the calculation of the Rental Assistance Payment. Therefore, it is important to accurately obtain this information. If the tenant is determined to be a “low income” person based on the applicable HUD schedule, then income is a consideration in the calculation of the “base monthly rental for the displacement dwelling” and ultimately may affect the amount of rental payment due the tenant.

The term “base monthly rental for the displacement dwelling” (base rent) is the lesser of:

1. The current rent and utilities of the displacement dwelling; or
2. Thirty percent of gross household income, if the amount is classified as low income by the HUD Annual Survey of Income Limits; or
3. The amount designated for shelter and utilities in certain welfare programs.

Once the base rent is known, then it can be subtracted from the lesser of the actual new rent plus utilities; or the rent plus utilities of the comparable replacement. The resulting difference is then multiplied by 42 (the payment is paid for a period of forty-two months) to yield the total amount of the Rental Assistance Payment.

See § 24.402 for additional detail and limitations.

## Let's See How it Works

March 2005



## “Let's See How It Works”

Please refer to example entitled:

What is the Household Income?

E-- 7

## Explanation/Example

### SUBPART E Reference Section § 24.402(b)(2)(ii)

#### What is the household income?

Ms. Smith is a single mother and is in college full time. She works evenings and weekends. She receives regular child support payments from the child's father and occupies a family owned dwelling at no rent. She provides you the following detail:

Her income as shown on a W-2 is \$15,000 and child support is \$4800. You have estimated the rent value of the dwelling she occupies at \$900 per month.

*Suggested answer is \$19,800. Monthly gross is \$1650.*

*Discussion: Income from employment and child support are considered as household income. The non-cash subsidy she receives from her family in the form of a rental abatement is not income. That issue should be routinely handled as part of the rent assistance determination.*



## Income Considerations

March 2005



### Income Considerations

- New Definition – § 24.2(a)(14) Household Income means total gross income received for a 12-month period from all sources (earned and unearned).

E - 8

**NOTES:** Another new definition is for the term “household income,” which is the foundation for establishing base monthly rent used in rent supplement calculations. The key is to ensure appropriate recognition of elements of income the household may receive. The twelve month period usually is the twelve months immediately preceding the initiation of negotiations.

## Income Considerations (cont)

March 2005



### Income Considerations (cont.)

- Including, but not limited to:
  - Wages.
  - Salary.
  - Child support.
  - Alimony.
  - Unemployment benefits.
  - Workers compensation.
  - Social security.
  - Net income from a business.

## Income Considerations (cont.)



March 2005



## Income Considerations (cont.)

- It does not include income received or earned by dependent children and full-time students under 18 years of age.

E - 10

**NOTES:** The income of neither “dependent children” nor “full time students” is considered when determining the family gross income. Full time students over 18 may be considered as dependents, and income excluded from the total, but this is within the discretion of the Agency to determine.

**EXAMPLE:** Mr. Allan is an hourly employee. His hours vary widely during the year – some weeks with overtime and some weeks at less than 40 hours. His wife works helping a friend with a cleaning business. She is paid as an independent contractor. The Allan’s 22 year old son is a part-time college student and works part time. The family provides you the following information:

Mr. Allan – gross for 2004 is \$12,300; Mrs. Allan—total income per her records is \$4000; the adult son had W-2 income of \$12,000; the family had food stamp assistance of \$800.

*Suggested answer: gross annual income is \$28,300. Monthly gross is \$2,358.*

*Discussion: Since Mr. and Mrs. Allan have employment incomes, all of their gross wages are considered as household income. Further, their son’s income is considered since he is over 18 years old. Food Stamps are excluded as income.*

## Income Considerations (cont) § 24.402(b)(2)(ii)



March 2005



### Income Considerations (cont.) § 24.402(b)(2)(ii)

- Use 30% of monthly household income only when tenants and occupants are considered “low income.”

E - 11

**NOTES:** The link for finding “low income” can be found through the FHWA Real Estate website at URL <http://www.fhwa.dot.gov/realestate/ua/ualic.htm>

## Exclusions from Income

March 2005



### Exclusions from Income

- § 24.2(a)(14) excludes earnings of dependent children under 18.
- Appendix A refers to a HUD published list of Federally Mandated Exclusions From Income.
- Available on FHWA's Web site at:

<http://www.fhwa.dot.gov/realestate/exclusions.htm>

E - 12


**NOTES:** The FHWA Web site provides a link to HUD's most recent publication listing the Mandated Exclusions. The guidance in the rule, and especially in the Appendix A, points out that the Agency should also contact the Federal Agency if they encounter a subsidy that may come from a program starting later than the last published list.

Examples of funds excluded from income:

- Food stamps.
- Alaska Native claims settlements payments.
- Scholarships funded under Title IV of the Higher Education Act of 1965.
- Agent Orange Settlement Funds.
- Earned Income Tax Credits.

## Finding Income Exclusions and Low Income Limits

March 2005



### Finding Income Exclusions and Low Income Limits

<http://www.fhwa.dot.gov/realestate/index.htm>

**Special Interest**

- Uniform Act Web Course
- Right-of-Way and Utilities Pilot Projects
- Final Rule: 49 CFR Part 24
- 2004 Right-of-Way awards
- FHWA Right-of-Way Domestic Scans

Access is available on the FHWA Realty homepage.

E- - 13

**NOTES:** Access to needed information is available through the FHWA's Realty home page. This page provides links to the related sites you will need to visit once you have determined the household income. Items in the yellow portion of the page are subject to change and as the title indicates will display the "Real Estate Topics of Special Interest".

Low-income levels for each area are available by referring to the latest HUD-compiled tables. The new 2005 limits were effective February 11, 2005. Calculation examples are in the appendix.

**INSTRUCTOR NOTES:** This process is one that lends itself to the use of handouts to step through the calculation process.

## Let's See How it Works



March 2005



## “Let's See How it Works”

Please refer to example entitled:

**Rental Replacement Housing  
Calculations for Low Income Tenants**



## Explanation/Example

### SUBPART E Reference § 24.402(b)(2)(ii)

#### Rental Replacement Housing Calculations for Low Income Tenants

##### 1. Non-low income; rent exceeds 30% of income

Sam High has a gross income of \$6,000 per month, and is not considered low income per the HUD tables. His monthly rent and utilities is \$3,000. If displaced, his rental subsidy is calculated as:

Available Comparable: \$3,100, includes rent and utilities

$$\$3100 - \$3,000 = \$100; \$100 \times 42 = \$4,200$$

(Under the old rule the calculation would be as follows: 30% gross income is \$1,800  $\$3,100 - \$1,800 = \$1,300 \times 42 = \$54,600$ )

##### 2. Low income; rent exceeds 30% of income

Jill Low has a gross income of \$1,000 per month, and is considered low income based on the HUD Income Limits for your county. Her monthly rent and utilities is \$400. If displaced, her rental subsidy is calculated as:

Available Comparable: \$625, includes rent and utilities

30% of monthly income is \$300; since this is lower than her actual rent, it is the basis of the rental subsidy calculation. Thus,  $\$625 - \$300 = \$325; \$325 \times 42 = \$13,650$ .

##### 3. Low income; rent is less than 30% of income

Bob Below has a gross income of \$1,500 per month and is considered low income based on the HUD Income Limits for your county. His monthly rent and utilities are \$400. If displaced, his rental subsidy is calculated as:

Available Comparable: \$500, includes rent and utilities

30% of monthly income is \$450; since this is more than he is paying in rent and utilities, the actual rent and utilities is the basis of the rental subsidy calculation. Thus,  $\$500 - \$400 = \$100; \$100 \times 42 = \$4,200$ .



**HUD Annual Survey of Income Limits for Public Housing and Section 8 Program for  
“your” City and State (hypothetical).**

Current	Number persons per household						
Family Size	1	2	3	4	5	6	7
Your City - State	\$20,700	\$33,400	\$44,100	\$54,600	\$65,900	\$77,800	\$90,900

## 90 Day Occupants Downpayment Assistance



March 2005



### 90 Day Occupants Downpayment Assistance § 24.402(c)

- Agency can elect maximum \$5,250 downpayment and apply uniformly.
- Downpayment no longer limited to conventional loan downpayment amount.

E - 15

**NOTES:** In the case of the first bullet, there was only a minor clarification of the language of the regulation with no change in meaning or implementation.

The second bullet, in the new Appendix language, does make a change in that the downpayment is no longer limited by the minimum downpayment amount required for obtaining a conventional loan.

**IMPLEMENTATION:** This potentially would benefit purchasers of lower value DSS replacement properties. It would also tend to lessen administrative burden of Agencies to implement the downpayment program.

## Cost of Comparable Dwelling



March 2005



## Cost of Comparable Dwelling § 24.403(a)(1)

Adjustment of asking price  
no longer allowed

E - 16

**NOTES:** Former rule forced homeowner to become a negotiator. Change will reduce chance of appeal of replacement housing calculation. The new procedure will reduce administrative burden for acquiring Agencies and give relocatees “the benefit of the doubt” when the replacement housing allowance is calculated.

## Incidental Expenses §24.401(e)(4)



March 2005



## Incidental Expenses § 24.401(e)(4)

- Professional home inspection is now specifically eligible for reimbursement.

E - 17

**NOTES:** The reimbursement of a home inspection fee is an added benefit for those displaced.

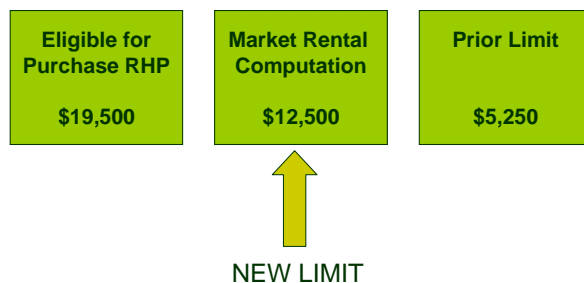
## Housing Options

March 2005



### Housing Options

§ 24.401(f) 180-day owner who rents:



E - 18

**NOTES:** The owner who rents can now receive more than was available under the prior rule if the market supports a higher rental amount. The owner could get “up to” the amount of the purchase RHP if the rental computation supports the supplement. Income is not considered when calculating a rental assistance payment for an 180-day owner electing to rent.

## Let's See How it Works



## **“Let's See How it Works”**

**Please refer to example entitled:**

**180-day Owners Who Rent**



## Explanation/Example

### SUBPART E Reference § 24.401(f)

#### 180-day Owners Who Rent

##### Example 1

The Dell's are 180-day owner occupants when they are displaced in a Federally assisted project. The Agency calculates a replacement housing price differential as follows:

List price of comparable dwelling	\$180,000
Acquisition price	\$170,000
 Maximum Price Differential	 \$ 10,000

The Dell's elect to rent a replacement rather than purchase and the Agency located a similar replacement dwelling available for rent. The determined fair market rental of the subject (Dell's home) is \$1,600; and the replacement has an asking rental of \$1,800.

- Old Rule: The Dell's could receive \$5,250; the maximum rental assistance for a long term owner who can be re-housed under § 24.401.

New Rule: The Dell's could receive \$8,400; the difference between their dwelling's market rent and the cost of the replacement for a 42 month period.

#### Notes:

1. The Dell's must be informed of the Price Differential even if they announce their intention to rent a replacement prior to the calculation of the differential.
  2. Within one year, the Dell's may change their election and purchase a replacement home costing at least \$180,000 and claim their remaining eligibility (\$1,600)
- 

#### Example 2

Assume the "List Price of comparable dwelling" in the above case was \$176,000. The maximum price differential would then be \$6,000. Under the new rule, the Dell's would receive only \$6,000 for rental subsidy since that is their maximum eligibility.

## Last Resort

March 2005



### Last Resort

- Payment limits (\$5,250 - \$22,500) are set aside.
- Less than 90 day occupants could receive rental assistance.

E- -20

**NOTES:** FHWA uses “protective rents” to protect re-occupying; HUD uses “move in notice” to avoid this type of tenancy. Effective use of these strategies will reduce if not eliminate situations where less than 90 day occupants are encountered.

**Q: How does the change in § 24.2(a)(6)(vii)(C) [part of the definition of *comparable replacement dwelling*] change the treatment of “less than 90-day occupants” or “subsequent occupants”?**

A: Displaced persons failing to meet the length of occupancy requirements continue to be eligible for relocation benefits under last resort housing. What has changed is how the benefit is calculated. Benefits for low-income tenants still will be calculated using the 30% of income rule contained in § 24.402(b)(2). For others, the calculation will be rent-to-rent. The reason for the change, as noted in the Preamble to the final rule, is to ensure consistent treatment of displacees. Across an agency’s programs, the net effect of the change in the 30% rule is expected to be a reduction in financial liability. However, with respect to some individual displacees who do not meet the length of occupancy requirements, the calculation of benefits may result in a higher payment under the final rule than under the former rule. Agencies may wish to consider using loss-of-rent agreements to limit and manage financial liability when they believe that there is substantial risk that a subsequent occupant situation will occur.



## Let's See How it Works



March 2005



## “Let's See How it Works”

Please refer to example entitled:

**Less Than 90-Day Tenant**



E - 21

## Explanation/Example

### SUBPART E Reference §24.404(c)(3)

#### Less Than 90-Day Tenant

A tenant moves into a dwelling after the initiation of negotiations. The Agency acquires the property 45 days after the tenants occupies the dwelling and issues the tenant a notice to vacate. The tenant's rental assistance is calculated as follows:

Tenant Gross Monthly Income:	\$1,000
Current Rent and Utilities:	\$500

Available Rental with Utilities:	\$750
----------------------------------	-------

Tenant is low income per HUD schedule.

New rent and Utilities:	\$750
30% of Income:	<u>\$300</u>

Difference:	\$450	x	42	=	Payment \$18,900
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## Subpart F

### 49 CFR Part 24 Subpart F, Mobile Homes



## 49 CFR Part 24 Subpart F

*Mobile Homes*

## Key Topics



March 2005



### Key Topics

- New definition.
- Reorganization.
- Early payment eligibility determinations.
- Payment options.

F--2

**NOTES:** The key items to be covered in this subpart are limited because the basic content did not change.

The new definition is marginally important, but only as tempered by added material in the appendix that relates how the recreational vehicle might be acceptable as an available replacement. DSS issues are a key consideration.

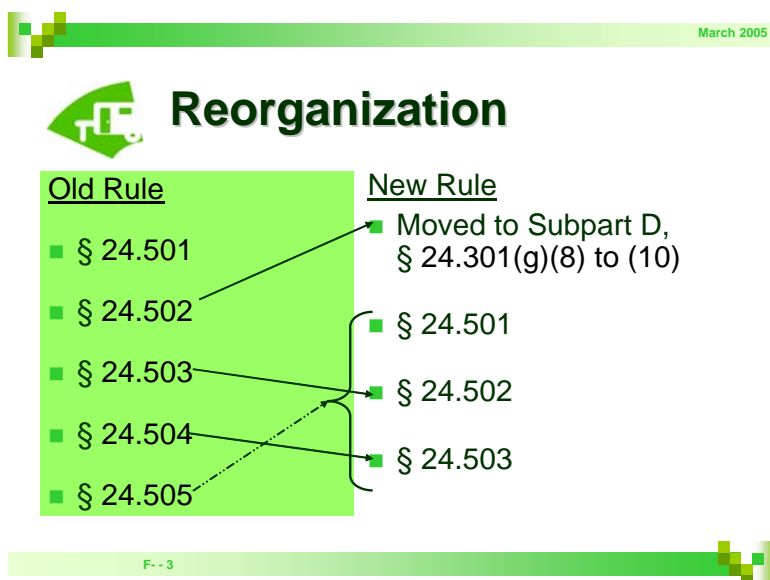
The reorganization approaches the various type of combinations of ownership/tenant/site/dwelling possible and addresses each separately.

In each scenario, the determination relating to realty/personalty is emphasized to be made at the front end of the process based on state law considerations.

Determine availability of comparable replacement sites early in relocation planning.

Some clarification on how to handle certain payment eligibilities should make it easier for mobile home occupants to acquire conventional housing.

## Reorganization



### NOTES:

The subpart was shortened by taking the moving cost provisions in former § 24.502 and fitting them within Subpart D under the eligible expense list. A reference to the Subpart D location – § 24.301(g)(1) through (10) – is included under new § 24.501(a). That paragraph had been in old § 24.505, which was eliminated in the new rule; the content from this section was consolidated elsewhere in the subpart.

§ 24.501 Applicability.

§ 24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home and/or from the acquired mobile home site.

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

## Reorganization (cont.)



## Reorganization (cont.)

- Revised § 24.502 covers:
  - (a) Eligibility for 180-day owner occupants.
  - (b) Replacement housing payments.
  - (c) Rental assistance.
  - (d) Mobile home as personal property.
- Revised § 24.503 covers:
  - Eligibility for 90-day occupants and tenants.



**NOTES:** A matrix is included in a later slide to assist in determining eligibility and a logic path for the process to calculate payment eligibility under various scenarios of tenancy and displacement.

## New Definition

March 2005



### New Definition

- **§ 24.2(a)(17)** Mobile home.  
The term mobile home includes manufactured homes and recreational vehicles used as residences.
- Definition was added to clarify what is recognized by HUD for its programs.

F--5

**NOTES:** The Appendix contains several paragraphs discussing each of these two types of housing that have been combined under the term “mobile home.”

The manufactured home addition comes from HUD-based programs that treat the two types of housing synonymously provided the housing is capable of being sectioned and moved.

The recreational vehicle is an option that is dependent on how these vehicles are perceived by the local jurisdiction to meet standards for DSS. If they do not qualify under local regulation as DSS, then they would not qualify as replacement dwelling.

This clarification adds specificity in Appendix A, § 24.2(a)(17) regarding HUD criteria for mobile homes that must be met if such facilities are to meet DSS housing standards. The guidance defers to local code requirements. HUD criteria is also provided including:

- Size minimum of 8' X 40' or when erected on a site is 320 square feet or more
- Connected to utilities, etc.

## Mobile Homes

March 2005



### Mobile Homes



Pre-1976 Mobile Home



Manufactured Housing



Recreational Vehicle



F--6

#### NOTES:

- Modular homes are generally considered real estate and are generally dealt with in the same way as conventional housing.
- Mobile homes can be considered either real estate or personal property based on state law.
- Recreational vehicles are generally considered personal property.
- May include a live aboard boat.

Photographs of the various types of housing referenced in this subpart are as follows:

- Recreational vehicles.
- Manufactured housing.
- Mobile homes.



## Determinations

March 2005



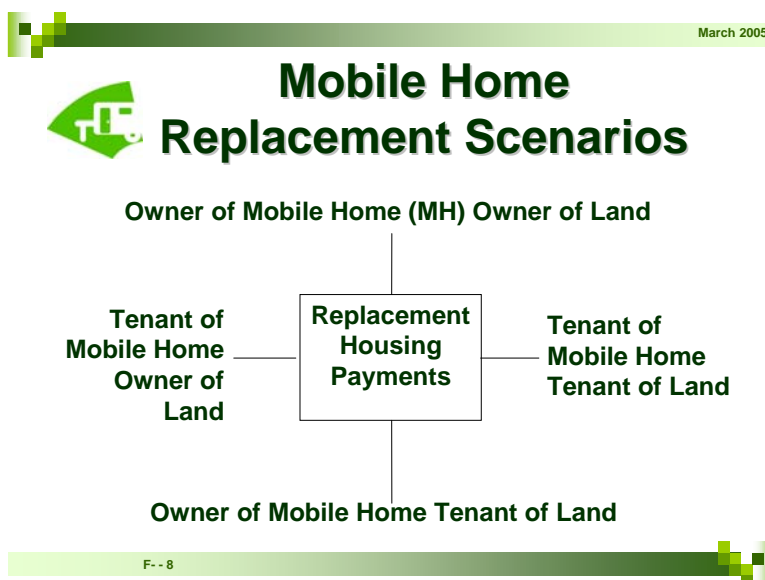
### Determinations

- Basic to mobile home situations:
  - Is the mobile home being acquired as real or personal property?
  - If personal property, is the mobile home:
    - Able to be moved?
    - Able to be DSS?
    - Are comparable replacement sites available prior to displacement?

F--7

**NOTES:** In each of the situations outlined for mobile homes, in order to handle occupant eligibility, the Agency must first know if real estate, either the site or the mobile home, is being acquired. If not, and the home is considered to be personal property, then additional determinations must be applied to ensure that the appropriate benefits are being provided.

## Mobile Home Replacement Scenarios



**NOTES:** This graphic summarizes the possible mobile home ownership/tenancy situations that may be encountered.

Depending upon ownership and tenancy arrangements, several combinations of replacement housing calculation will need to be made and replacement housing and sites will need to be available.

**Q.: Does the final rule change the treatment of mobile home owner/occupants who elect not to move their mobile homes?**

A: The final rule reorganized and rewrote the provisions that apply to owner/occupants who elect not to move their mobile homes. The new rule, at § 24.502(d), defines an owner who elects not to relocate their mobile home as not displaced from their dwelling and not entitled to a replacement housing payment. The owner, as a displaced person, is entitled to moving costs to relocate the mobile home to a replacement site. The final rule allows such an owner to claim moving expenses under § 24.301. Eligible costs include the net payment allowable under the former regulation if the mobile home is moved under § 24.301(g)(8), (9), or (10), as well as other eligible costs under § 24.301(g)(1) to (7). If the mobile home is not moved by the owner, it may be sold on site, traded in on a replacement mobile home, or an agency could choose to purchase and dispose of it at its salvage value. The net benefits to the displaced person under the final rule are expected to be similar to those available under the former rule.

## Payment Option

March 2005



### Payment Option

§ 24.502(c) permits using combined payment computations:

- Housing supplement for mobile home.
- Rental supplement for site.
- To purchase conventional dwelling.
- Limited to \$22,500 unless last resort applies.

F--9

**NOTES:** The revised provision adds clarity to the ability to apply the potential split payments calculated where an owner of a mobile home rents the site.

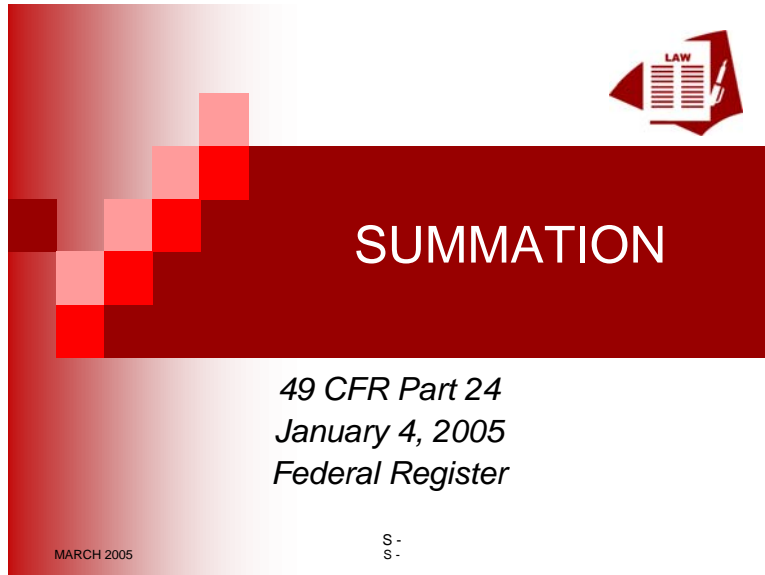
As in all situations where housing supplements are insufficient, housing of last resort could exceed the limitation. The rental supplement would just be added to the last resort housing supplement to determine the total that would have to be applied to the purchase of a conventional dwelling.

The calculated cost differential for the mobile home would be added to the rental supplement calculated for the site. This gross amount could be used to replicate the procure replacement housing based on assumptions in calculation, or it could be applied to the purchase of a mobile home and site or to the purchase of conventional housing.

**INSTRUCTOR NOTES:** It is possible for an Agency to acquire a site but not the mobile home on that site. This often happens if the dwelling unit is called personal property and not purchased by the Agency. In these instances, the owner-occupant of the mobile home unit is not displaced from the dwelling unit. However, this person is a displaced person and could be paid for moving cost and a replacement housing payment for the rent or purchase of a replacement site.

## Summation

### 49 CFR Part 24 Federal Register

A graphic for a presentation slide. It features a dark red background with a lighter red gradient on the left side. A series of red squares of varying shades are arranged in a staircase pattern on the left. In the top right corner, there is a white icon of a document with the word "LAW" written on it. The word "SUMMATION" is written in large, white, capital letters in the center. Below it, the text "49 CFR Part 24", "January 4, 2005", and "Federal Register" is written in a smaller, white, italicized font. At the bottom left, the text "MARCH 2005" is visible, and at the bottom right, there are two small white dashes, one above the other, representing a bullet point.

**SUMMATION**

*49 CFR Part 24  
January 4, 2005  
Federal Register*

MARCH 2005

S -  
S -

Wrap-up--Summation

## The 2005 Revision

MARCH 2005



## The 2005 Revision

- Provides Agencies more flexibility.
- Incorporates guidance for clarity.
- Strengthens valuation practices.
- Strengthens acquisition practices .
- Provides enhanced relocation assistance and benefits for residential and businesses relocations.

S - 2

**INSTRUCTOR NOTES:** Confirm with group, if this is the conclusion, they have accomplished the following the training session.

Instructor can ask students:

- Which items are the most critical, i.e., the “take aways” from the class
- List items that will be a challenge to implement
- Solicit any questions on policy interpretation and implementation.

Instructor can note that the Informational Guide contains a summary of the important changes. Instructor can go over and highlight major change areas, i.e. the bolded Arabic numbered items 1-10.

Please refer to policy directives and questions and answers about deadlines and transition guidance provided by FHWA concerning deadlines and implementation strategies.

If your funding Agency is other than FHWA, please be guided by your Agency.

Before adjourning address questions and concerns that will require further follow-up.

## Summary of Top 10 Changes



### **“Summary of Top 10 Changes”**

Please refer to the Explanation/Example  
titled

*Uniform Act Revised Final Rule*



Please see “Summary of Top 10 Changes” in Informational Guide

## Explanation/Example

### Uniform Act Revised Final Rule

#### Summary of Top 10 Changes

##### 1. Expanded Business Advisory Services –

- **24.205(a)(4)** Estimate availability of replacement business sites; Evaluate business move problems
- **24.205(c)(2)(i)** Determine relocation needs and preferences of business; advisory Services, perform interviews
- **24.205(c)(2)(i)(A)** Replacement site requirements,
- **24.205(c)(2)(i)(B)** Determine need for specialist to assist in planning, moving, reinstallation
- **24.205(c)(2)(i)(C)** Determine personalty vs. realty issues prior to, or at time of appraisal of property
- **24.205(c)(2)(i)(D)** Estimate time required to vacate the site
- **24.205(c)(2)(i)(E)** Estimate anticipated difficulty locating replacement property
- **24.205(c)(2)(i)(F)** Identify advance relocation payments required for the move; determine Agency’s legal capacity to provide advance payments

##### 2. Expanded Business Relocation Expenses

- **24.301(g)(17)** Searching expense limits increased to \$2,500, plus additional expenses are eligible
- **24.303** The following expenses will be paid on an actual basis if the Agency determines they are reasonable and necessary
- Utility connection from right-of-way to replacement site;
- Professional services, ie. soil testing;
- Impact fees or one time assessments for anticipated heavy usage

##### 3. 30% Income Rule for Rental Assistance Payment

- **24.402(2)(ii)** Applies 30% income rule only to low income persons “base monthly rent”; Reference HUD’s Annual Survey of Income Limits based on household size, geographic location

##### 4. Subpart B No Exception for Direct Federal Program or Project

- **24.101(a)** Subpart B applies to all directly Federal funded projects; with the exception of Tennessee Valley Authority or the Rural Utilities Service

##### 5. Decent Safe and Sanitary Definition Revised

- **24.2(a)(8)(iv)** Must comply with local code/Agency policy
- Adequate in size respect to bedrooms, area of living space, Separation of sleeping quarters by gender
- Accommodate those with physical disabilities

**6. Elimination of Style of “Living Phrase”**

- **24.2(a)(6)(ii)** Removal of this phrase is intended to eliminate abuse of interpretation; dwelling should be functionally equivalent (utility vs. esthetics)

**7. Appraisal Waiver Valuation Increase**

- **24.102(c)(2)(ii)** Option to perform a waiver valuation with an increased limit of \$10,000. with a maximum of \$25,000 if an appraisal is offered and approved by leading agency

**8. Conflict of Interest Increase**

- **24.102(n)(3)** Appraisers/review appraiser/wavier valuation preparer may be authorized to negotiate on subject property if the value of the property is less than \$10,000 and the valuation is uncomplicated
- Limit increased from \$2,500 to \$10,000

**9. Replacement Housing Payments**

- **24.402(c)** Renters who buy may apply the full rent supplement to downpayment
- **24.401(f)** Owners who rent may receive up to actual payment differential; \$5,250 cap was removed for 180-day owners, so amount to purchase supplement is available as rent supplement if justified

**10. Agency must not solicit or propose Relocation Benefit Waiver**

- **24.207(f)** Agency must advise displacee of their entitled benefits and not solicit a waiver of such rights as part of a global settlement



## Evaluation Open Questions



MARCH 2005



## Evaluation Open Questions

**Please fill out the Course and Instructor  
Evaluation Forms.**

**Write any open questions on the back of  
the instructors evaluation form.**

