



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

**49 CFR Part 24  
Regulatory Modifications**

**INFORMATIONAL *W*ORKBOOK**

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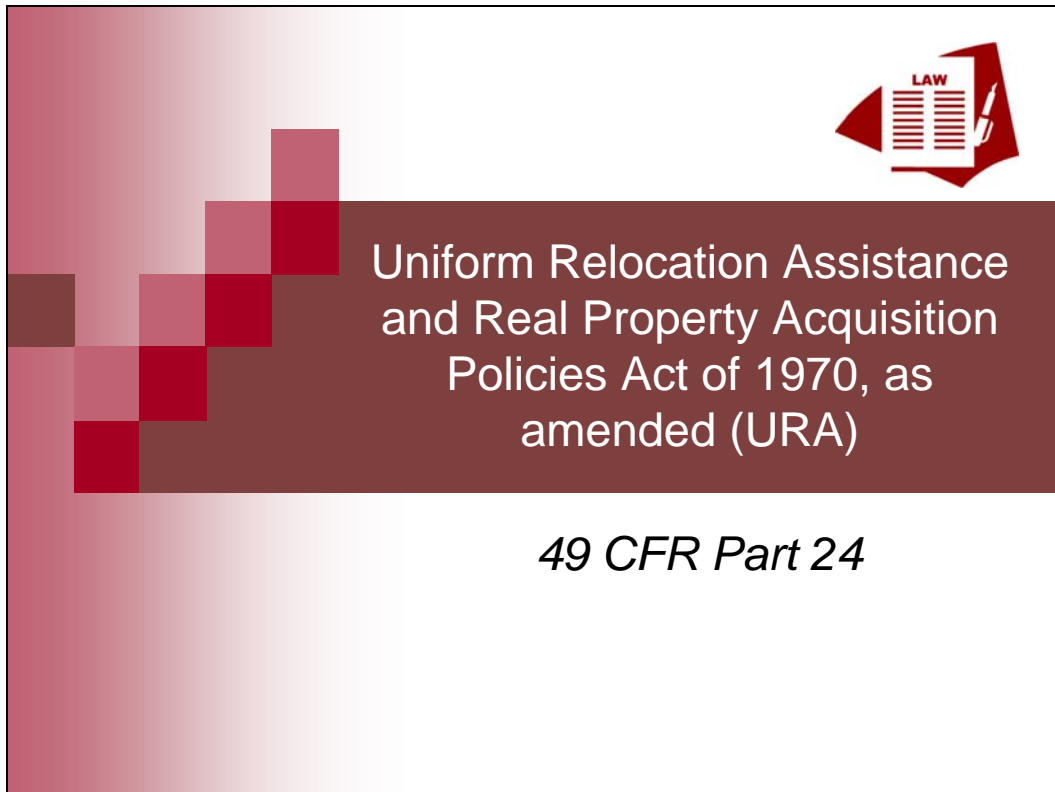
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## Introduction

### 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

2-16-05



## For Additional Information

Contact an FHWA Division Realty Officer at  
<http://www.fhwa.dot.gov/field.html#fieldsites>

-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/realstate/divroster.htm>

## Training Objectives

2-16-05



# 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

2-16-05



# Key Topics

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

A - 4

**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:** The briefing session is primarily designed to go over the new rule. To 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

2-16-05



# 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.)

2-16-05



# 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

2-16-05



# 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.)

2-16-05



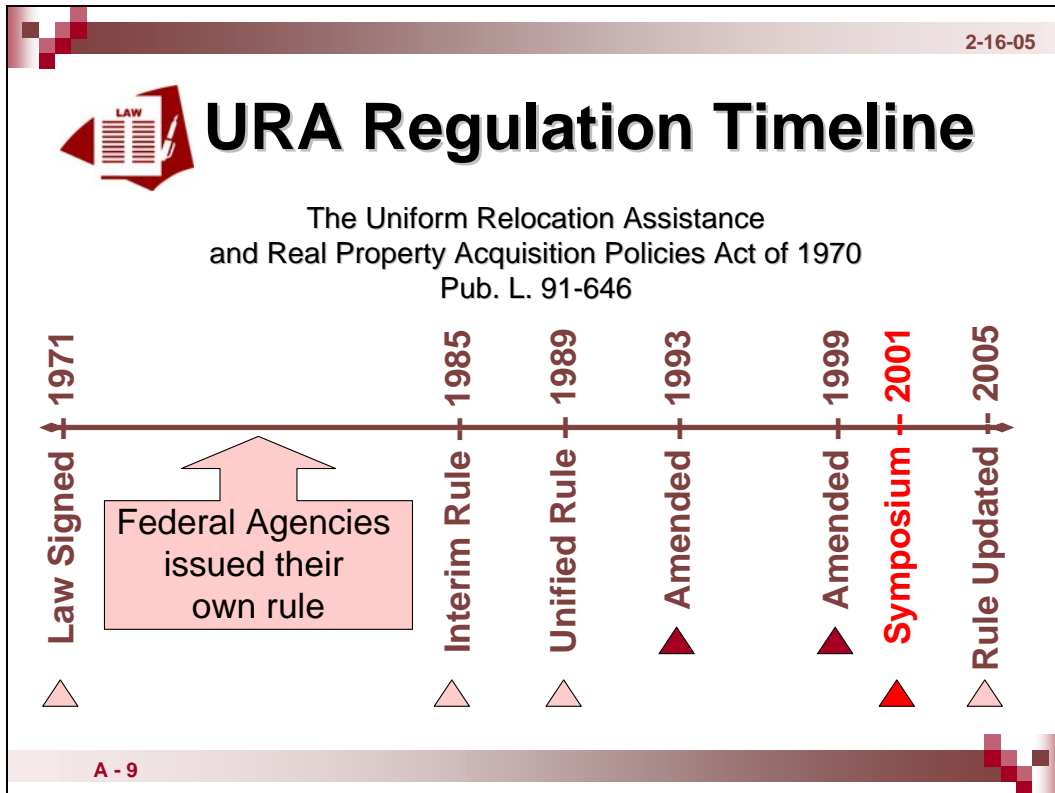
### URA – Purpose (cont.)

- 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



### The URA 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

2-16-05



# 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

2-16-05



# 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.



## Intent of Rule Revisions

2-16-05



# 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.

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**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.

## Subpart A

### Subpart A Changes, General

2-16-05



## Subpart A Changes General

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

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**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

2-16-05



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



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

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**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.

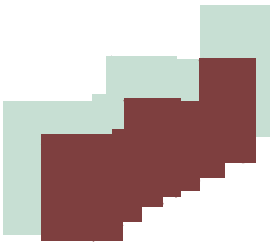
(33) Waiver valuation. The term waiver valuation means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to § 24.102(c)(2) appraisal waiver provisions. This definition was added for several reasons. The concept is extensively used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

2-16-05



### 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.

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**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 items 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

2-16-05



# 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.)



2-16-05

# 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.”

## Informational Guide 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

2-16-05



### 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 B Changes, Real Property Acquisition

2-16-05



### 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

2-16-05



### Subpart C Changes General Relocation Requirements


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

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**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

2-16-05



### 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

2-16-05





### Subpart E Changes Replacement Housing Payments

- Low income calculation.
- Owner rental option.
- Comparable replacement housing.

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

## Subpart F Changes, Mobile Homes

2-16-05

### Subpart F Changes Mobile Homes


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

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

## Subpart G, Certification

2-16-05




# Subpart G Certification

- No substantive changes.


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

## Appendices




2-16-05



# 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.

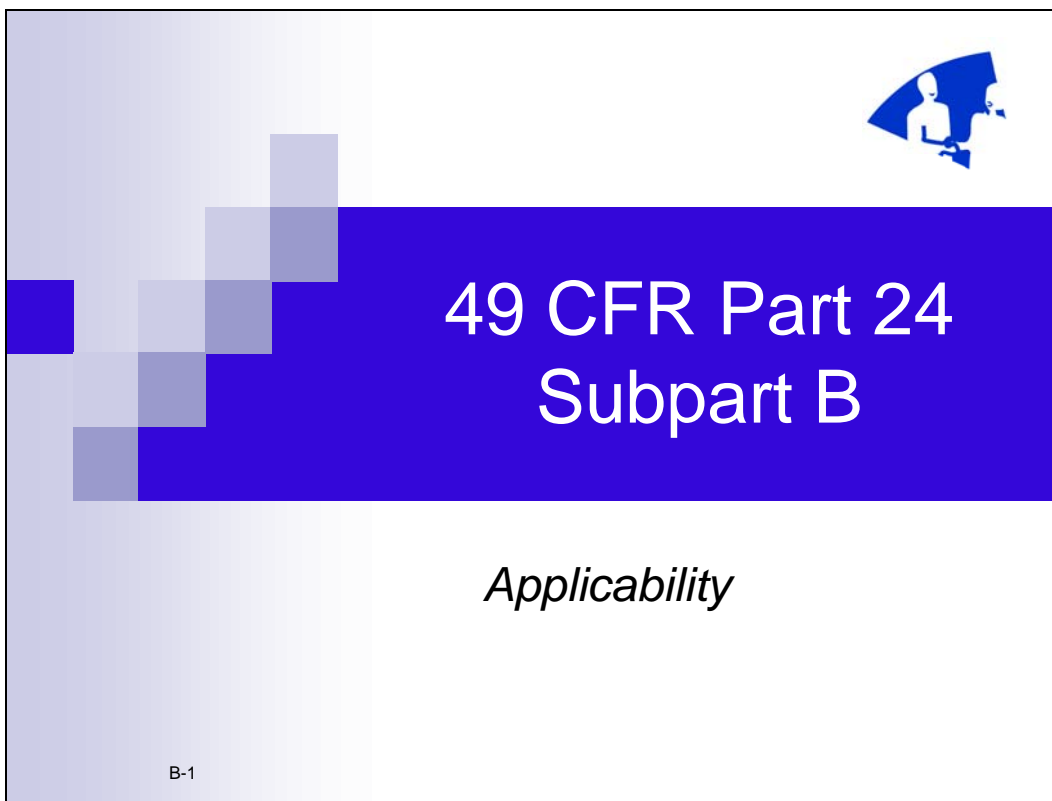
Appendix A was revised to provide detail and examples to amplify the key changes made throughout the regulations.


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*

B-1



## Applicability of Subpart B

2-18-2005



# 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.

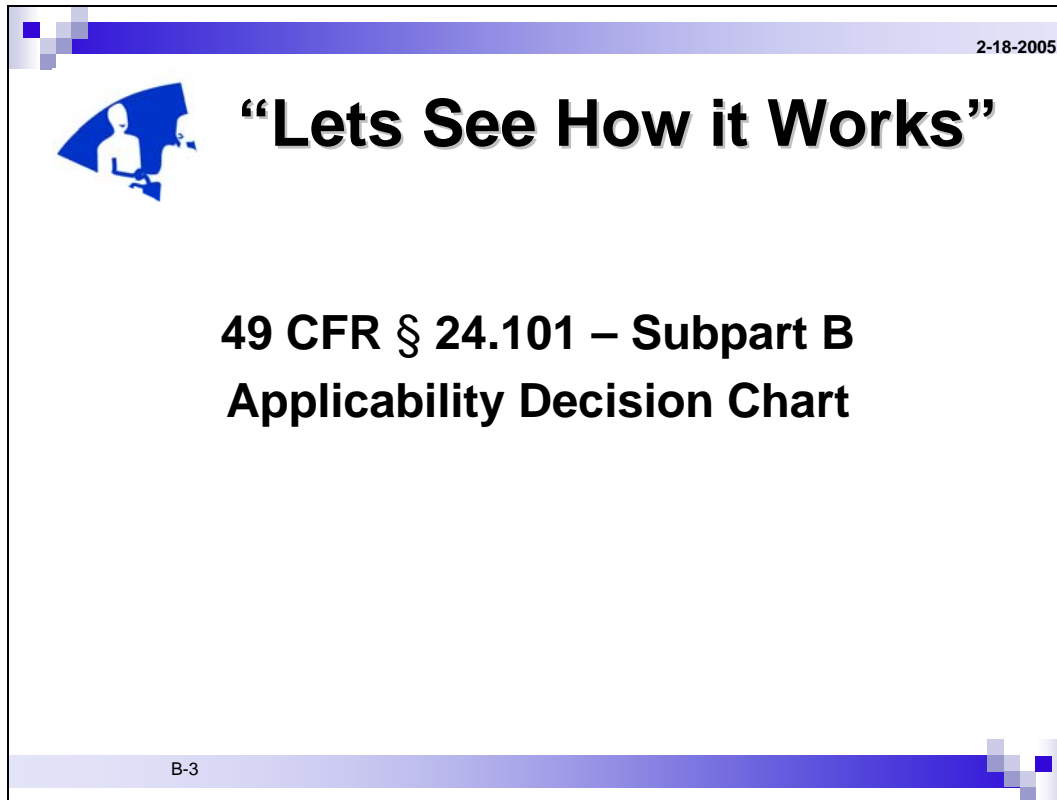
Requirements for federally assisted acquisitions are unchanged with one exception: owners must now be given an early notice in writing. Previously, early interest/likelihood of acquisition notices may have been given at public hearings or meetings. The final rule also requires that a written notice be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



2-18-2005

**“Let's See How it Works”**

**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.

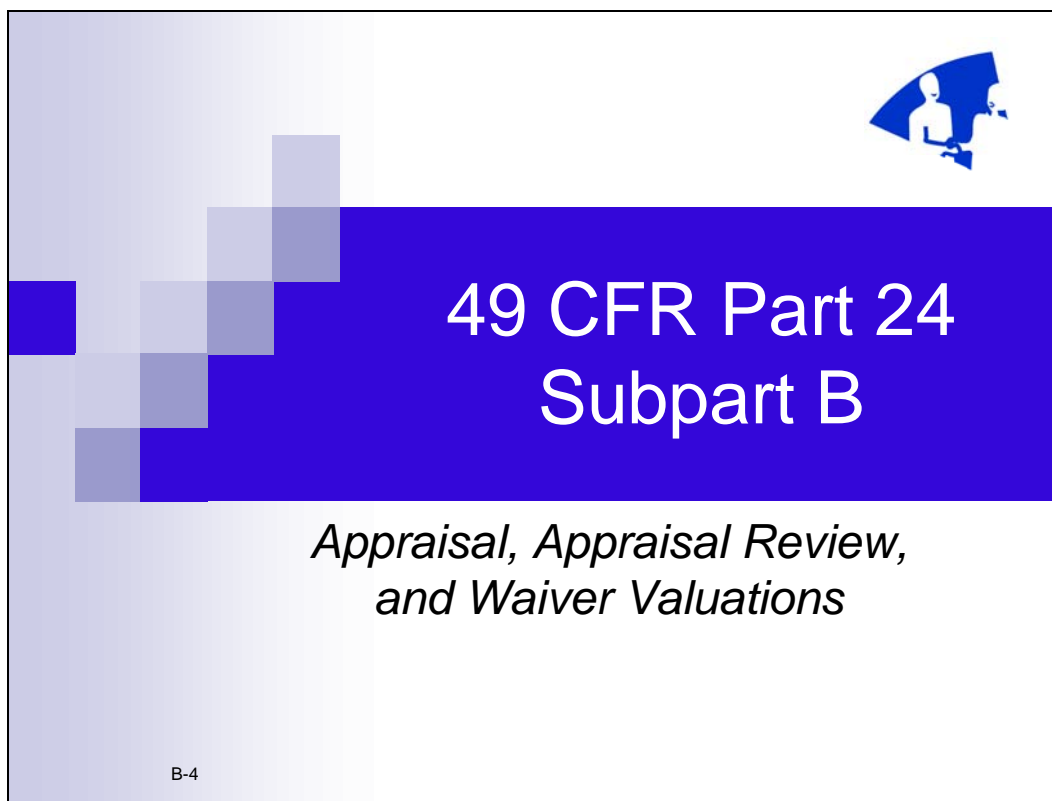
## Informational Guide Example

SUBPART B Reference § 24.101

Applicability Decision Chart

Buyer	Conditions	Subpart B Compliant?
Federal Aid or Grant Replacement	(1) DOES have Eminent Domain authority, but will meet ALL: i. no specific site ii. not part of a project iii. will NOT USE Eminent Domain 1,2 iv. inform owner of market value 1	NO
	(2) does NOT HAVE Eminent Domain authority and will not have any way to resort to Eminent Domain i. inform owner no Eminent Domain 1,2 ii. inform owner of market value 1	NO
	(3) the acquisition is from a government agency	NO
	(4) by a co-op from a member	NO
	(5) assistance is from TVA or RUS	NO
Federal Agency (except TVA or RUS)	Will use Eminent Domain, if necessary	YES
	Will NOT use Eminent Domain	YES, and must inform owner no Eminent Domain 1,2
Federally-assisted projects	§ 24.102, § 24.103, § 24.104 & § 24.105 apply to the greatest extent practicable under State Law, with any exceptions noted and approved in assurances required by § 24.4	

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



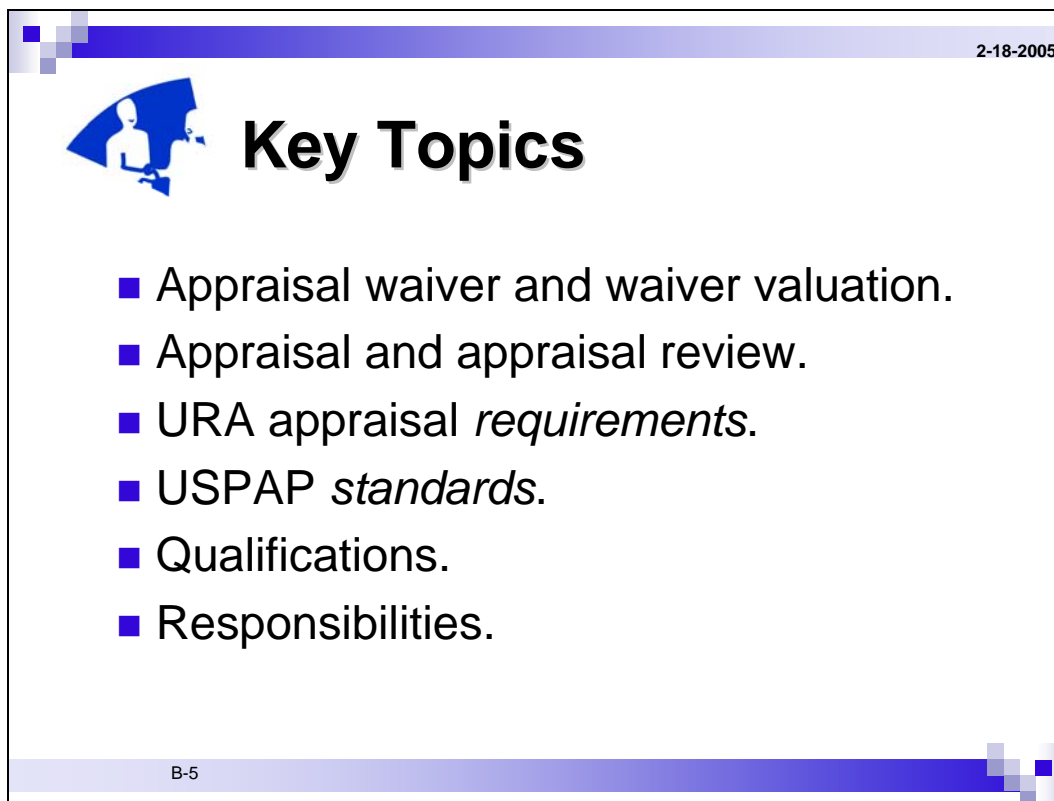
49 CFR Part 24  
Subpart B

*Appraisal, Appraisal Review,  
and Waiver Valuations*


B-4

**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.

## Key Topics



2-18-2005



# 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 are found in § 24.2(a)(3) and § 24.103(a) and Appendix A.

USPAP Standards Rules are found in the current edition of the Uniform Standards of Professional Appraisal Practice, published by The Appraisal Foundation.

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

## New Definition

2-18-2005



# 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-7

**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

2-18-2005



# 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-8


**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

2-18-2005



# 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-9

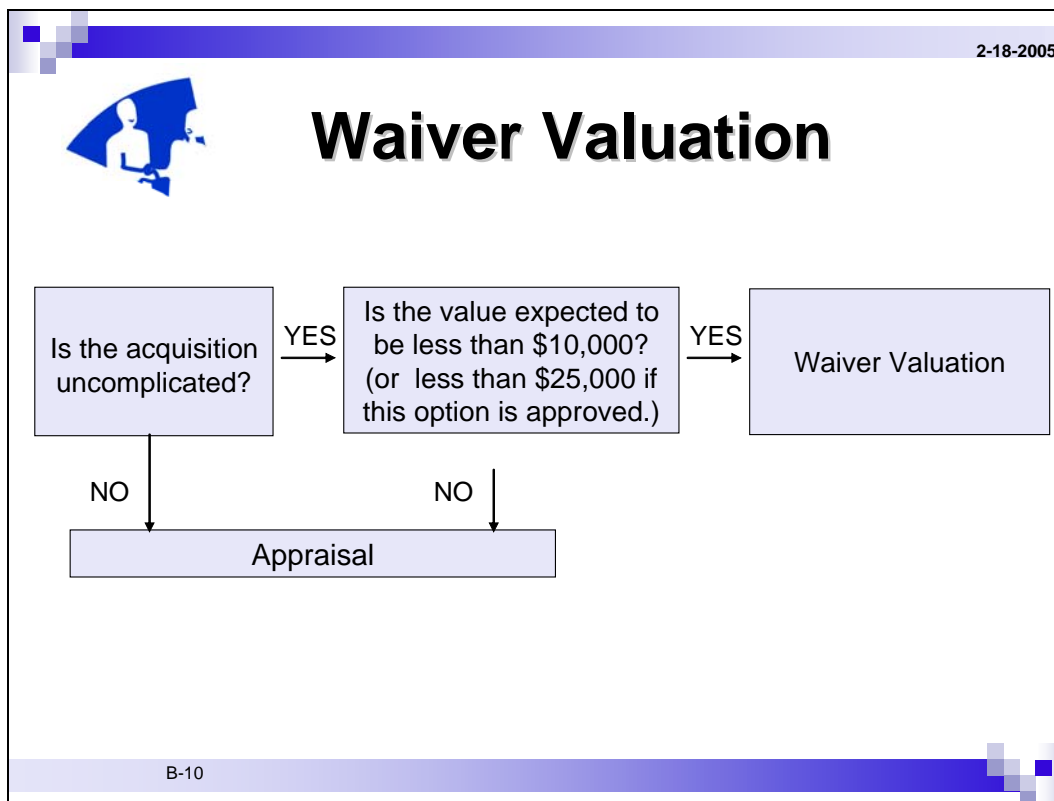
**NOTES:** Under § 24.102(c)(2)(ii), the agency has an option to determine whether an appraisal is necessary. If certain criteria are met, a simpler approach can be used. Although the prior regulation provided such use, it was limited to \$2,500, while the new rule allows agencies to use any amount up 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.)

2-18-2005



# 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-11


**NOTES:** 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

2-18-2005



# 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-12


**NOTES:** This rule, not USPAP, defines the federal appraisal requirements for federal and federally assisted real property acquisition for all federal agencies. The consistency of URA appraisal requirements with USPAP standards is mentioned in the rule and the background is discussed in Appendix A.

The rule is the first since USPAP was issued. This new rule has adopted *requirement* as the reference to URA appraisal criteria in order to avoid confusion with USPAP *standards*.

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

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

## Working to Maintain Consistency



2-18-2005


# Working to Maintain Consistency

- URA appraisal requirements and USPAP Standards Rules

B-6

**NOTES:** Historically, there have been some differences between these criteria. The new language clearly addresses these issues and explains how such differences can be resolved. This is the first URA regulatory change since the USPAP was issued.

## Criteria for Appraisal (cont.)



2-18-2005

# Criteria for Appraisal (cont.)

URA - Regulatory requirements, found at § 24.103.

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

B-13

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

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


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.

## Agency Responsibility

2-18-2005



# 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

2-18-2005



# 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



# Appraisal Realty/Personalty Report

2-18-2005

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

B-20

**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.



## Informational Guide 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

2-18-2005



# 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-16

**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

2-18-2005



# 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-17

**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

2-18-2005



# 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-18

**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

2-18-2005



# Scope of Work

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

B-19

**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.

## Informational Guide Example

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

#### Appraisal Scope of Work

The following criteria from the Uniform Relocation Act must 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.
- (a) 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.

#### URA or USPAP?

There are some consistencies between the URA requirements and USPAP Standards; however, 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>2</sup>, where applicable. The Jurisdictional Exception Rule states if any part of the USPAP

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

<sup>2</sup> For a complete description of Jurisdictional Exception Rule refer to 2005 Edition USPAP Jurisdictional Exception Rule

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.

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

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

2-18-2005



# 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 the new rule, given much attention, 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.)

2-18-2005



### 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

2-18-2005



# 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. 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.

As discussed previously, the review appraiser would be responsible for reviewing the “Realty/Personalty Report” that is prepared by the appraiser.

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

## Appraisal Review (cont.)

2-18-2005



# 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:** In § 24.104(a), the review appraiser is given three options in reporting the review.


As part of the review, the agency is given the option of authorizing the staff review appraiser to approve the appraisal (as the basis for the agency's establishment of the offer of just compensation,) and if also authorized by the agency, to develop and report the amount believed to be just compensation. If there are multiple appraisals, the review appraiser can accept two (or more) and recommend one.

The above actions are required when there is one or multiple appraisals. It should not be significantly different from the process now followed, except that the review appraiser is now required to more formally categorize the assessment of each report.

For most agencies, generally 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. However, there is no direct requirement that a reviewed agency appraisal be automatically 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 appraisal review, to be the "recommended" and "approved" one.

## Review Appraiser Roles

2-18-2005



# 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:** Excerpt from Appendix A:

“If the initial appraisal submitted for review is not acceptable, the review appraiser is 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.”

“§ 24.104(b). In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for URA statutory Section 301(3) purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.”

“Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may be involved in devising the scope of work statements and participate in making appraisal assignments to fee and/or staff appraisers. They are also are 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.”

It is anticipated that a formal written review report will be prepared.

**NOTE TO INSTRUCTOR:** Anticipate questions regarding preparation of an independent value by the review appraiser complying with USPAP. If the review appraiser believes it does not comply, the jurisdictional exception can be used based on the URA regulations, but must comply with Part 24 appraisal requirements.

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



# 49 CFR Part 24 Subpart B


*Offers, Negotiations,  
and Settlements*

B-26

**NOTES:**

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

## Key Topics



2-18-2005

# 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

2-18-2005



# 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.

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

2-18-2005



# 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.

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

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).

## Administrative Settlements

2-18-2005



# 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 were 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

2-18-2005



# 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:** The maximum amount for value-negotiator has increased to \$10,000. Appendix A, § 24.102(n) Conflict of interest. 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.


The change is that the preparer of a waiver valuation is added. This applies to everyone doing the work including consultants.

The limit amount of conflict of interest was increased in the new regulation to \$10,000 which was previously \$2,500.

**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

2-18-2005



# 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:** “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. This change could require minor modifications of some organizational structures to implement § 24.102(n)(2).

**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



2-18-2005

# **Conflict of Interest “Lets See How it Works”**

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

B-33

## Informational Guide 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.

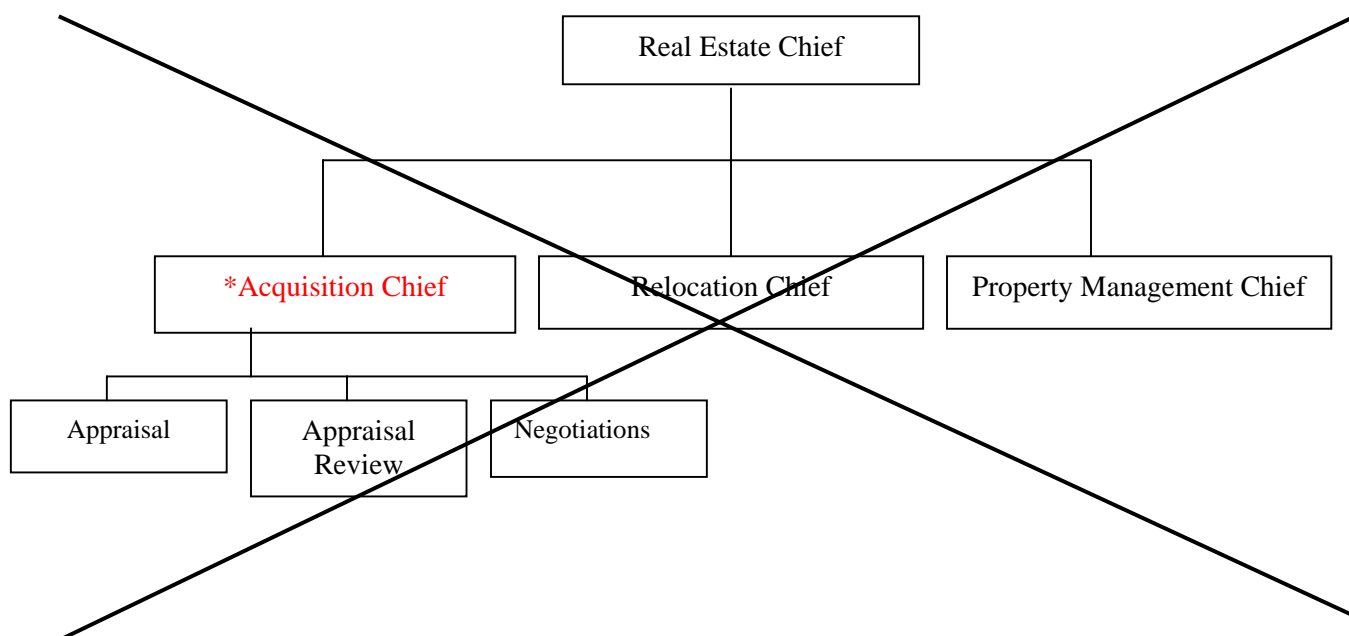
- Neither the appraiser, review appraiser or valuer (waiver valuation) shall have any interest in the property being valued.
- No person functioning as a negotiator can supervise or formally evaluate the performance of any appraiser or review appraiser. This relates directly to the following examples.
- 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.**

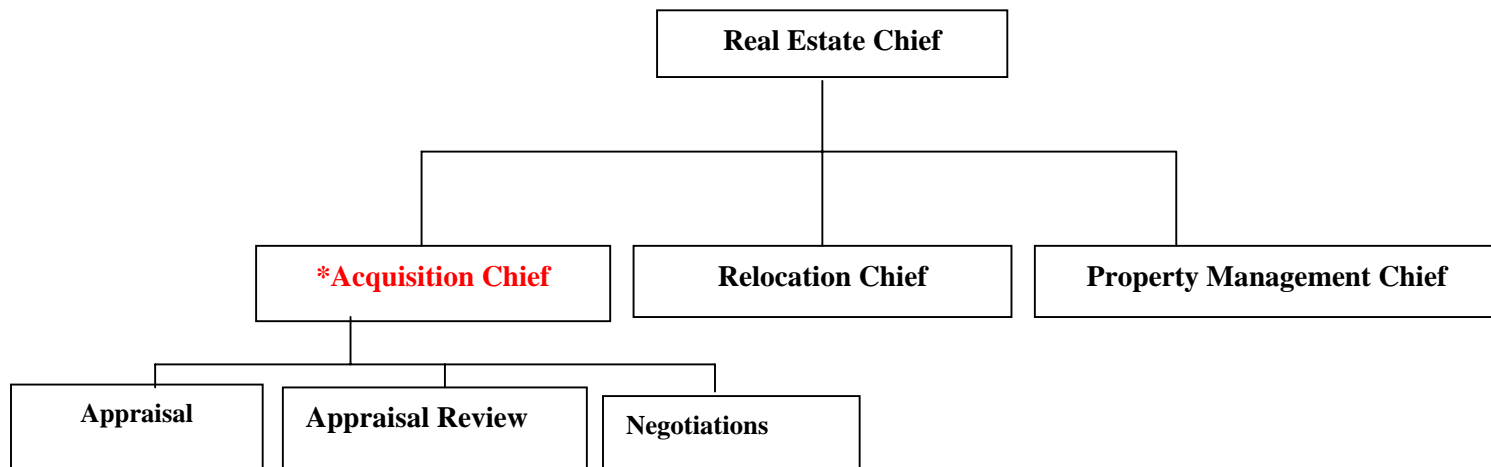
**This arrangement would not be consistent with the new regulatory requirements.**



## Subpart B Reference § 24.102(n)

### Supervision of Appraisers

#### Example 2



(Complies with new requirement)

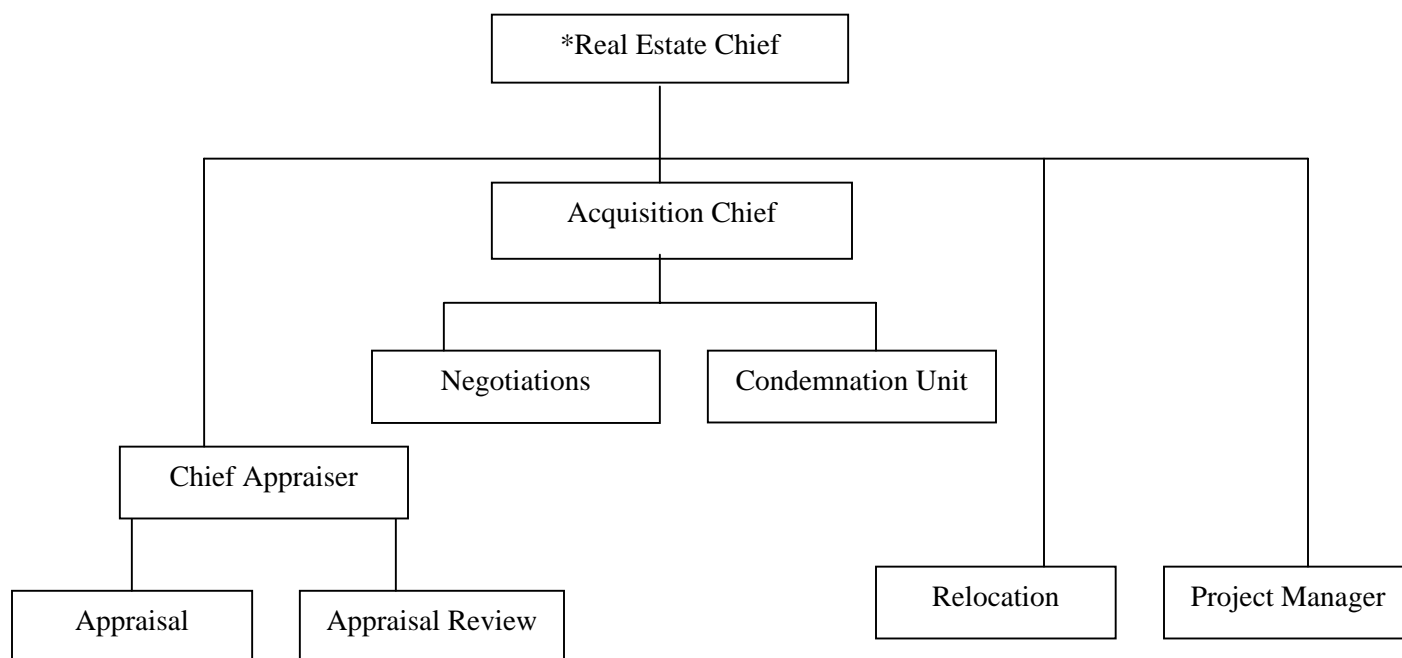
•The person in the position of Acquisition Chief is NOT actively involved on a frequent basis in the day-to-day decisions-making about acquisition negotiations; AND/OR SELDOM directly negotiates with property owners; AND supervises and performs either 1st level or 2nd level performance evaluations of 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

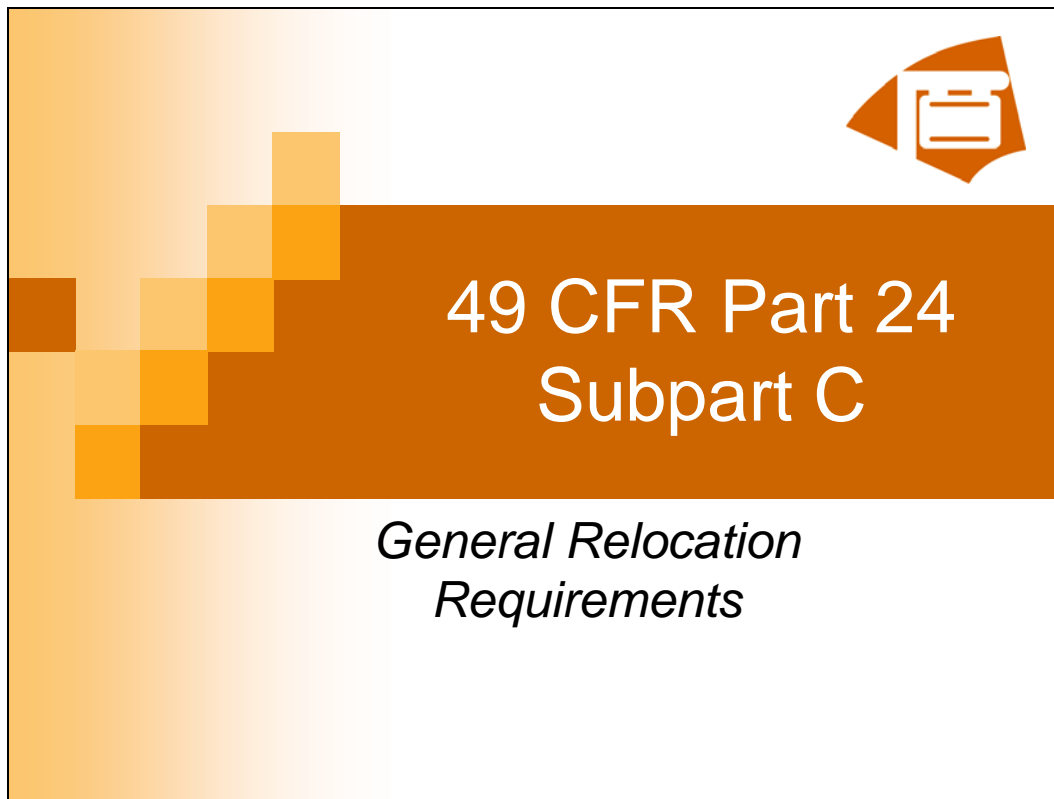


(Complies with new requirement)

\* 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*

The graphic features a series of overlapping orange squares of varying shades on the left side, creating a staircase effect. In the top right corner, there is a white icon of a printer on an orange background.

## Key Topics

2-16-05




# Key Topics

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

## Relocation Planning

2-16-05




# 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

2-16-05

### Relocation Planning – Nonresidential

- *National Business Relocation Study.*  
[www.fhwa.dot.gov/realstate/nbrs2002.htm](http://www.fhwa.dot.gov/realstate/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.)

2-16-05



### 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 and 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

2-16-05



# **“Let’s See How It Works”**

**Please refer to example entitled:**

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

C- 6



## **Informational Guide 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 displacee?**

- 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

2-16-05



# 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

2-16-05



# Decent, Safe, and Sanitary

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

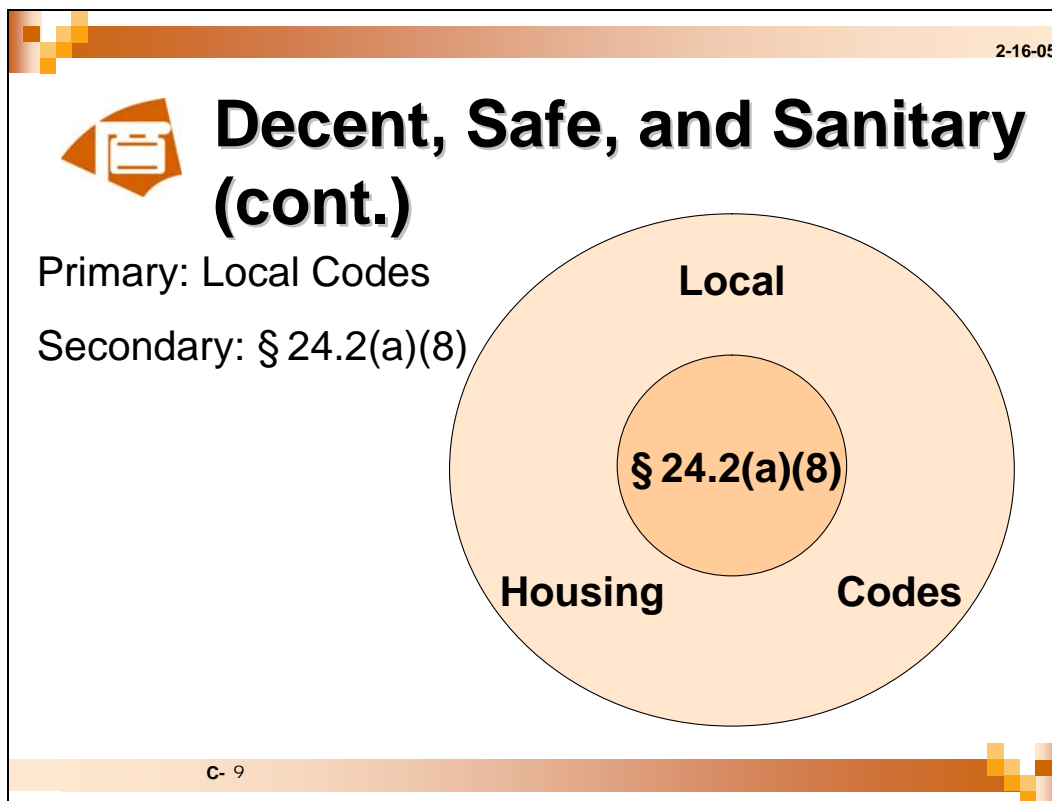
C- 8

**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.)



**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

2-16-05



# 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

2-16-05



# **“Let’s See How It Works”**

**Please refer to example entitled:**

**Comparability Requirements –  
Government Assisted Housing**

C-11

## Informational Guide 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

2-16-05



### 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




2-16-05



### Expenditure of Payments

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

C-13

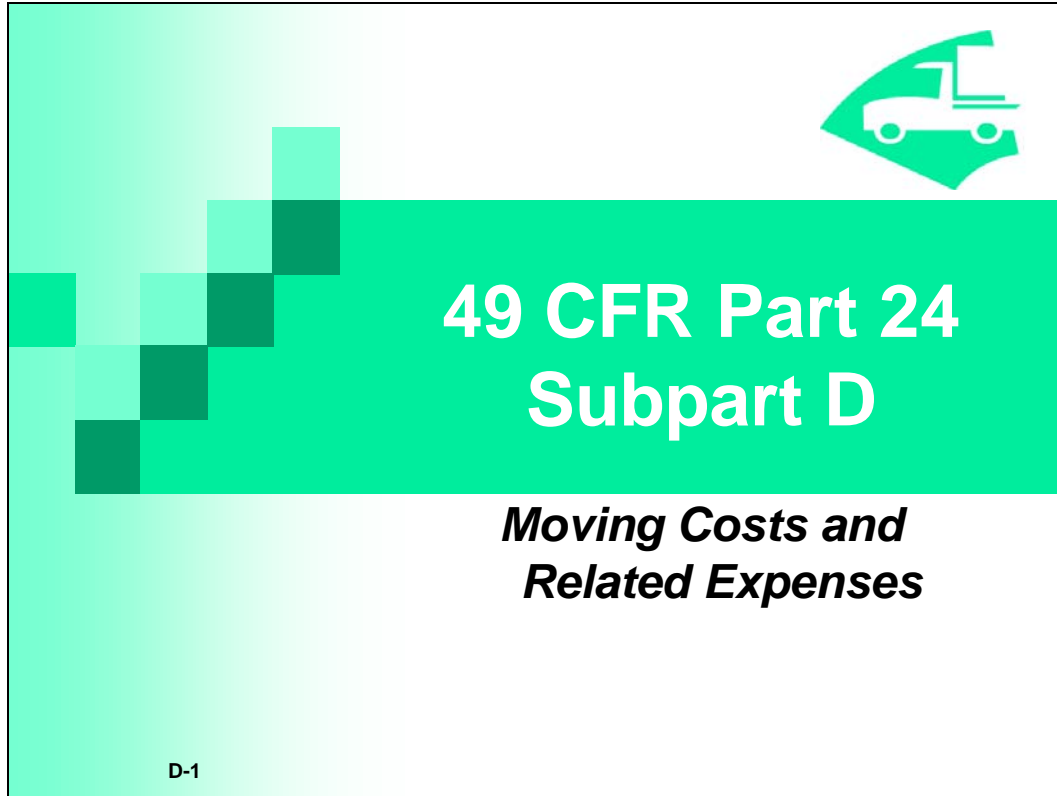


A new requirement was added in § 24.207(g) to codify the longstanding practice and understanding that relocation benefits are not to be considered federal financial assistance. This is an important distinction in situations where replacement properties are acquired by displaced persons.

**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.

**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

2-18-05



## 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.)

2-18-05




## Key Topics (cont.)

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

D-3

## Reorganized Support

2-18-05



# Reorganized Subpart

<u>Old Rule</u>	<u>New Rule</u>
▪ § 24.301	▪ § 24.301 Expanded
▪ § 24.302	▪ § 24.302 Reworded
▪ § 24.303	▪ § 24.303 <b>NEW*</b>
▪ § 24.304	▪ § 24.304 Unchanged
▪ § 24.305	▪ § 24.305 New # only
▪ § 24.306	▪ § 24.306 New # only
▪ § 24.307	▪ § 24.306 New # only

**\*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

2-18-05



### 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)

2-18-05



### 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

2-18-05



# **“Let's See How It Works”**

**Please refer to example entitled:**

**Residential Move Costs**

D-7

## Informational Guide Example

### SUBPART D § 24.301(b) and (c)

#### Residential Self Move Example

**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.

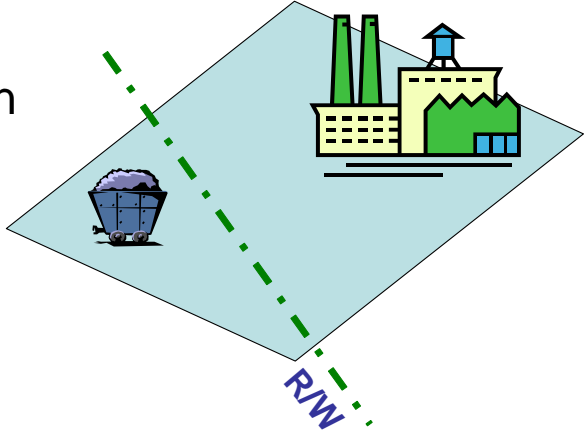
## Moves of Personal Property Only

2-18-05



# 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.



The diagram illustrates a factory with two tall chimneys and a water tower, situated on a light blue diamond-shaped plot. To the left of the factory, there is a large pile of purple material on a blue cart. A dashed green line, labeled 'R/W' (Right of Way), runs diagonally across the plot, separating the factory and materials from the rest of the area.


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


2-18-05



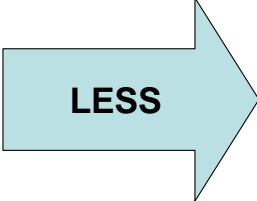
### Actual Direct Loss

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


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



LESS



or



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

D-9

**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

2-18-05



### **“Let's See How It Works”**

**Please refer to example entitled:**

**Working with Tangible Property Loss and  
Substitute Property**

D-10

## Informational Guide 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

2-18-05



### 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(d)(11).

## Nonresidential Moves – Searching Expense

2-18-05



# 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 workbook 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


2-18-05



### Low Value/High Bulk


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

**Pay the lesser of ...**



**Price for sale at old site.**

**or**



**Cost for new at new site.**

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

2-18-05



### **“Let’s See How It Works”**

**Please refer to example entitled:**

**Example of Low Value / High Bulk**

D-14

## Informational Guide 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

2-18-05



# 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.

**Informational Guide:** 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.

## Informational Guide 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.

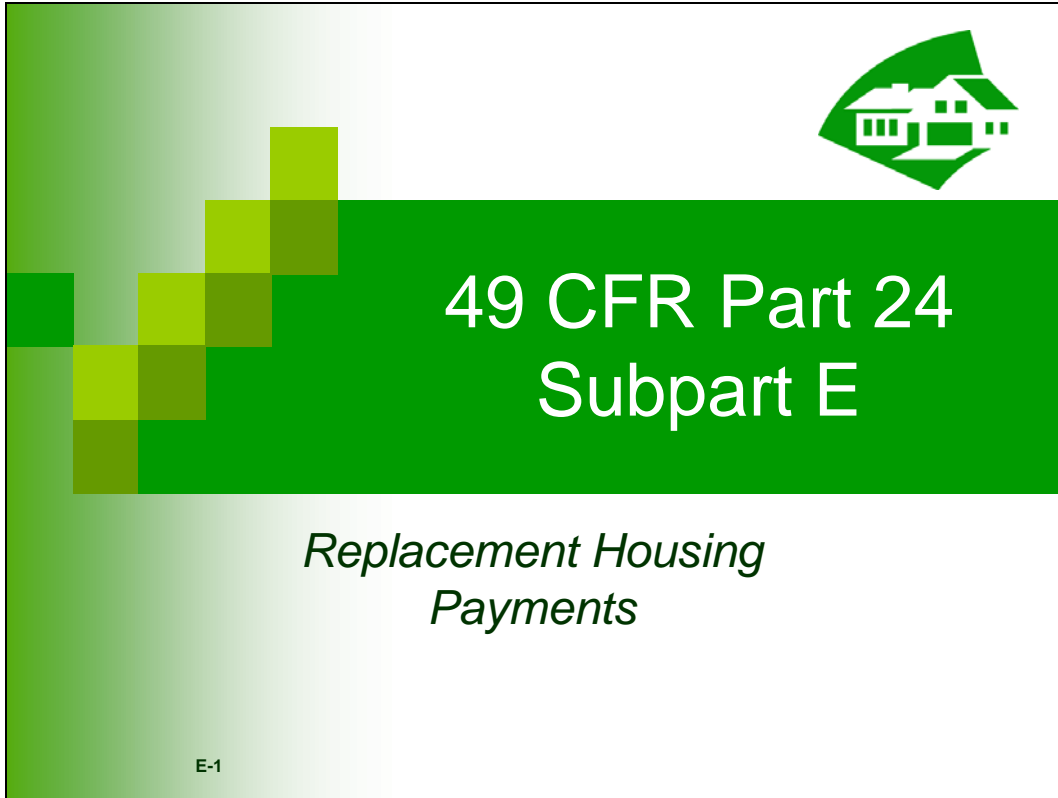
\*partial payment due to \$10,000 cap being reached

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 include the business owner's time to apply for permits, etc. and to negotiate the purchase of a replacement property

## Subpart E

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



The graphic features a white house icon with a green roof, set against a green leaf-like background. To the left, a staircase of squares in various shades of green and yellow ascends from the bottom left towards the top right. The text is overlaid on a green background that transitions into a white background at the bottom.

49 CFR Part 24  
Subpart E

*Replacement Housing  
Payments*

E-1

## Key Topics



2-18-05



### 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

2-18-05



# 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

2-18-05



# 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

2-18-05




# 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?


2-18-05



### 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

2-18-05



# **“Let's See How It Works”**

**Please refer to example entitled:**

**What is the Household Income?**

E-7

## Informational Guide 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 (cont.)

2-18-05



### Income Considerations (cont.)

- 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 recognitions 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)

2-18-05




# Income Considerations (cont.)

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

E-9

## Income Considerations (cont.)

2-18-05



### 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 both “dependent children” and “full time students” are not considered when determining the family gross income. Full time students over 18 are can be also 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)

2-18-05




### **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

## Exclusions from Income

2-18-05



# 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

2-18-05



# 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](#)

**Realty**

Highways affect people's lives by improving safety and the way we move about our communities and county. We realize that to improve highways and carry out other transportation programs, some people's lives are disrupted because their land, home, or business may have to make way for a project. Learn how [how private property is purchased](#) for a project which receives Federal Financial support or, if you wish to learn more of [programs for people and businesses who have to move](#) because of the purchase of this property.

The information on these Real Estate pages is a resource on [FHWA programs and activities](#) for property owners and occupants, transportation improvement program professionals, and highway right-of-way and other public acquisition program professionals. You are invited to browse and use this information. You are also invited to give us suggestions on how we can make these pages more useful to you, and how our programs can be improved. E-mail Susan Lauffer at [susan.lauffer@fhwa.dot.gov](mailto:susan.lauffer@fhwa.dot.gov). Revisit this site frequently to obtain current program information and announcements. If you don't see the topic you are looking for, check our [Subject Index](#). Use the [Contacts](#) button above to connect with program specialists.

**New Job Opportunities [New! 2/12/05](#)**  
The Office of Real Estate Services is seeking applicants for Realty Specialist positions at the GS 12, 13, and 14 grade levels. For more information, go to <http://www.fhwa.dot.gov/bvacancy/roads.htm>

**Real Estate Topics of Special Interest**

- [GIS in Transportation](#)
- [Real Estate Acquisition Guide for Local Public Agencies](#)
- [National Business Relocation Study](#)
- [Real Estate Exchange \(Discussion Forum\)](#)
- [Guidance on Hardship Acquisition and Condemnation](#)
- [European Right-Of-Way And Utilities Best Practices](#)
- [Uniform Act Web Course](#)
- [Right-of-Way and Utilities Pilot Projects](#)
- [Low Income Calculations](#)
- [Final Rule: 49 CFR Part 24](#)
- [2004 Right-of-Way awards](#)
- [FHWA Right-of-Way Domestic Scans](#)
- [Federally Mandated Exclusions From Income](#)

HRP Funding Programs

E-13

**NOTES:** The URL listed on the prior slide is the current link to the information, but it is also accessible from 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.

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

2-18-05



# **“Let’s See How it Works”**

**Please refer to example entitled:**

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

E-14

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

## Cost of Comparable Dwelling

2-18-05



# Cost of Comparable Dwelling

## § 24.403(a)(1)

Adjustment of asking price no longer  
necessary

E-15

**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)

2-18-05



# Incidental Expenses

## § 24.401(e)(4)


- Professional home inspection is now specifically eligible for reimbursement.

E-16

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

## Housing Options

2-18-05



### Housing Options

§ 24.401(f) 180-day owner who rents:

Eligible for Purchase RHP \$19,500	Market Rental Computation \$12,500	Prior Limit \$5,250
---------------------------------------	---------------------------------------	------------------------

↑  
NEW LIMIT


E-17

The diagram shows three green boxes. The left box is labeled 'Eligible for Purchase RHP' with '\$19,500' below it. The middle box is labeled 'Market Rental Computation' with '\$12,500' below it. The right box is labeled 'Prior Limit' with '\$5,250' below it. A yellow arrow points upwards from the text 'NEW LIMIT' to the 'Market Rental Computation' box.


**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




2-18-05



# “Let's See How it Works”

**Please refer to example entitled:**

**180-day Owners Who Rent**



E-18

## Informational Guide 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

2-18-05



# Last Resort

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

E-19

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.

## Let's See How it Works

2-18-05



# **“Let’s See How it Works”**

**Please refer to example entitled:**

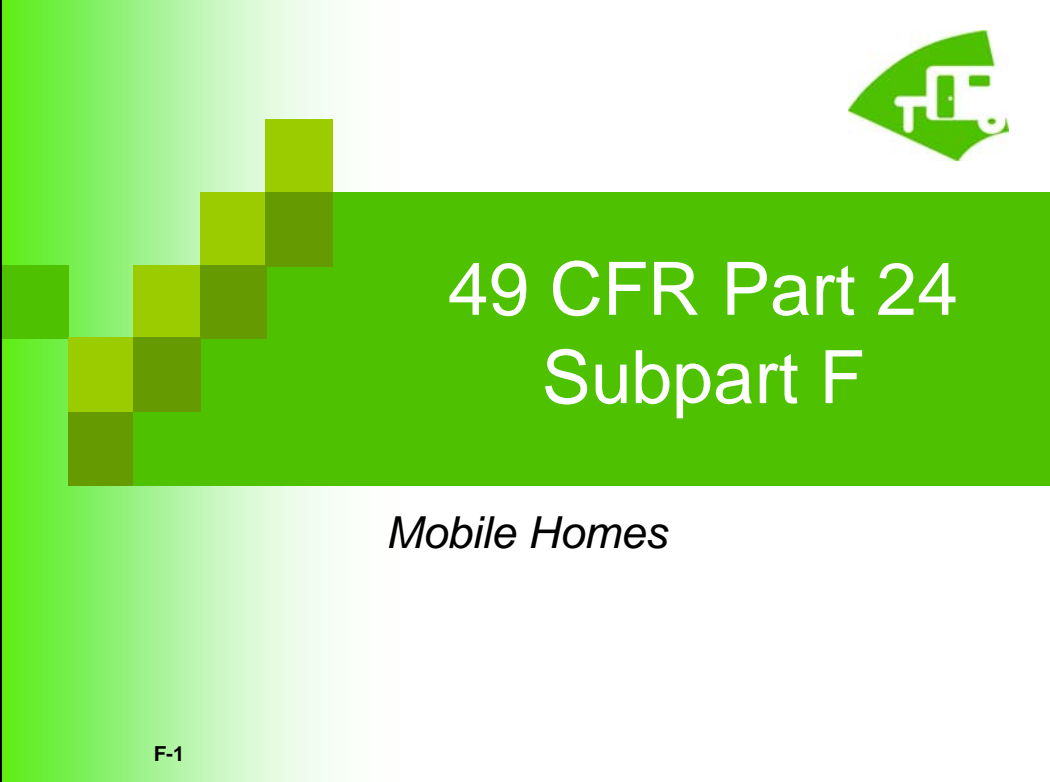
**Less Than 90-Day Tenant**


E-20



## Subpart F

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



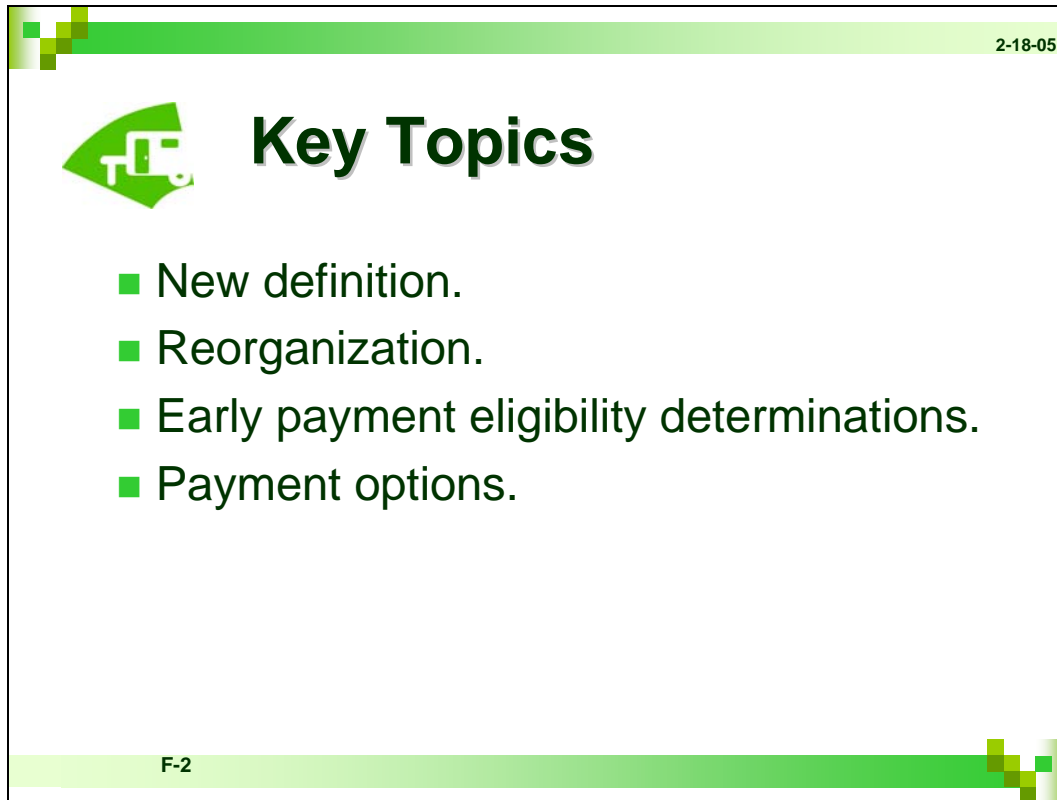


49 CFR Part 24  
Subpart F

*Mobile Homes*

F-1

## Key Topics



2-18-05

### 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.

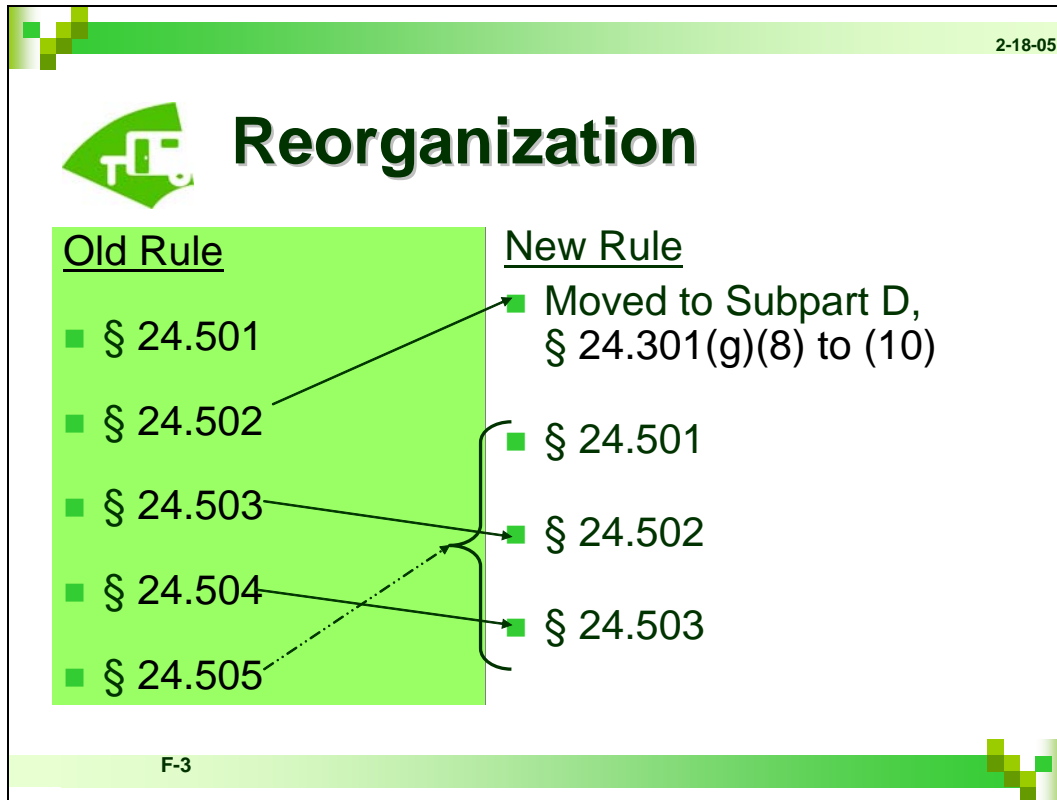
The reorganization approaches the various type of combinations of ownership/tenant/ site/dwelling possible and addresses each separately.

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(b). 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.)

2-18-05



### 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.

F-4

**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

2-18-05



## 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

2-18-05



# 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 depicted in the workbook as follows:

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

## Determinations

2-18-05



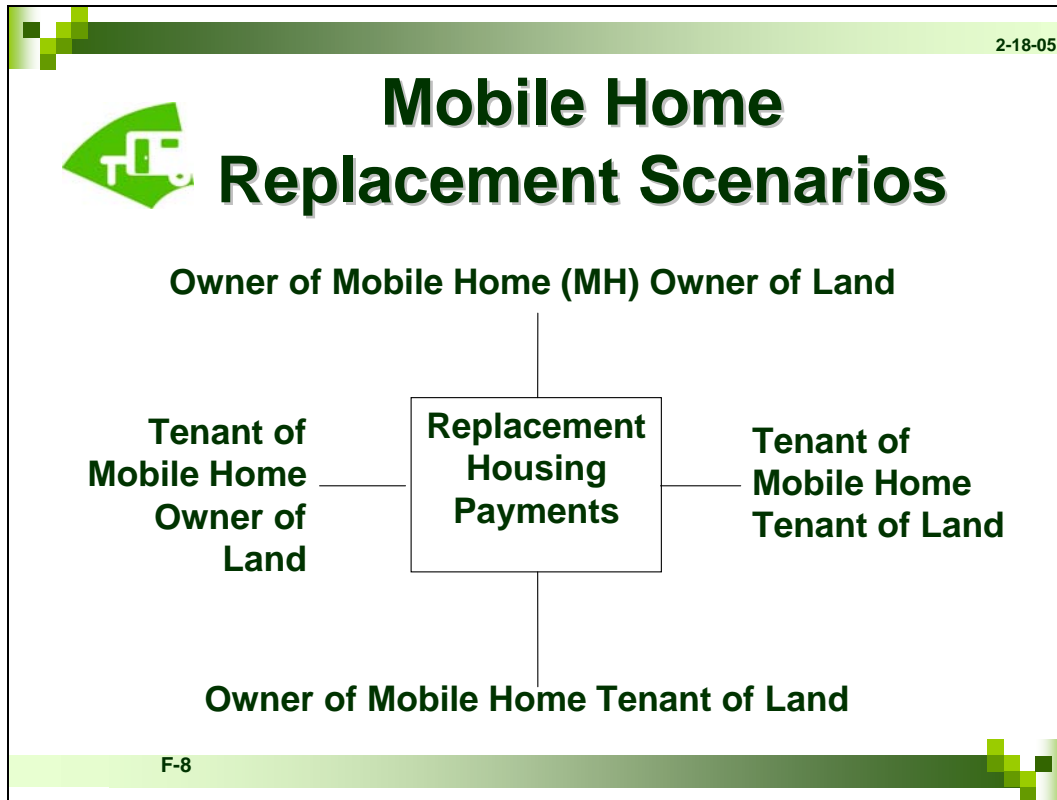
# Determinations

- 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.

## Payment Option

2-18-05



# 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.

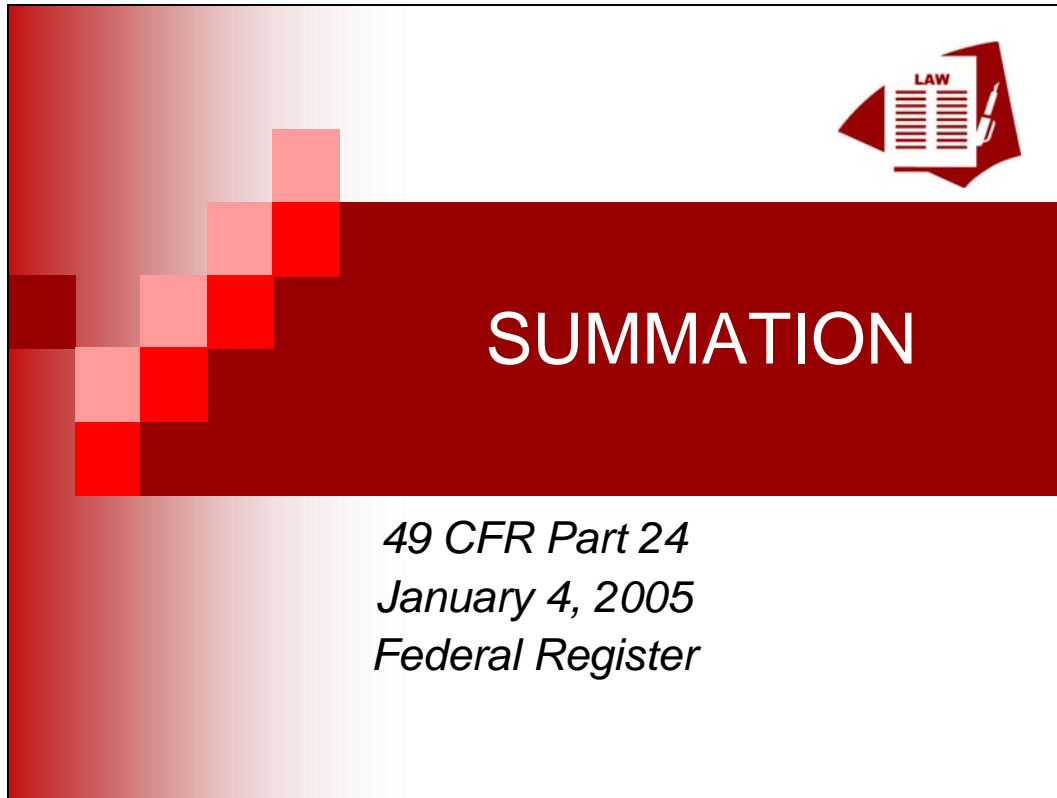
As in all situations where housing supplements are insufficient, housing of last resort could exceed the limitation. The rental supplement would just be added to the last resort housing supplement to determine the total that would have to be applied to the purchase of a conventional dwelling.

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



**LAW**


# SUMMATION

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

Wrap-up--Summation

## The 2005 Revision

2-21-05



# 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.

**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 Workbook contains a summary of the significant 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. These memos can be found in your Informational Guide.

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.

Please see “Summary of Significant Changes” in Informational Guide.



## Let's See How it Works

2-21-05



# **“Let's See How it Works”**

**Please refer to the Informational Guide  
for a listing of the Top 10 Changes**

## Informational Guide Example

### Uniform Act Revised Final Rule

#### 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.

#### 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. Descent 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