

Uniform Act Legislation and Regulations

49 CFR Part 24 Changes

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On January 4, 2005, the FHWA issued a final rule revising the regulations in 49 CFR Part 24 dealing with the government-wide requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). The Uniform Act and the implementing rule provide uniform and equitable treatment of persons displaced from their homes, businesses, or farms, and establish uniform and equitable land acquisition policies for public programs using federal funds. The rule changes clarify requirements and improve service to individuals and businesses affected by federal or federally assisted projects. While the rule changes update and streamline the regulations, the changes do not materially alter any benefits or other financial arrangements associated with the programs subject to the Uniform Act.

The changes resulted from the FHWA's three-year collaboration with the 17 federal agencies affected by the Uniform Act. During that time, the FHWA held a series of public listening sessions to identify needed revisions. The FHWA included the results of the process in the December 2003 Notice of Proposed Rulemaking (NPRM). In response to the NPRM, the FHWA received 775 comments from a wide variety of public and private sources.

The final rule, published in the Federal Register (find it online at <http://www.archives.gov>), contains the evaluation of the comments and a discussion of the decision-making process leading to the changes made to the regulation. A copy of the [revised regulation](#) is available electronically on the GPO access site. This pamphlet highlights the key changes to each subpart of the rule.

The revised rule goes into effect on February 3, 2005. Many of the rule changes clarify requirements and thereby make improvements in achieving program uniformity. Some of the changes, however, directly

affect the acquisition of real property and the relocation assistance and benefits available to persons displaced by federal and federally assisted projects. Those changes may require adjustment in agency procedures as of the rule's effective date.

In particular, businesses need access to the increased assistance and restructured benefits available to them. In addition, for more uniform and consistent treatment, the final rule clarifies the acquisition process and the methods used to value property and to make offers to persons whose property is being acquired. Therefore, all agencies subject to the Uniform Act must understand the new requirements and consider their application to ongoing and new acquisition and relocation cases.

Frequently asked questions and other information related to implementation will be available on the FHWA Web site at https://www.fhwa.dot.gov/real_estate/uniform_act/. Each Federal agency will provide guidance regarding the application of this new rule and consultation related to the particular programs they administer. Each agency will also determine the extent of revision needed to conform organizational rules, policies, guidance information and handout materials of the State and local agencies that administer their programs. State and local agencies will need to address such updates in order to properly institutionalize the new rule material.

Subpart A General

Subpart A contains the administrative procedures and operational requirements necessary for implementing the Uniform Act. The first section deals with key definitions. The format of the definitions in Section 24.2 received a makeover. In addition, the FHWA added a list of acronyms to the section; refined and clarified the definitions for *utility cost*, *salvage value*, *initiation of negotiations*, and *temporary relocation*; and added new definitions for *dwelling site*, *household income*, *mobile home*, and *waiver valuation*. Appendix A includes supplemental explanations or examples for each of these new definitions. The FHWA also revised several other definitions for clarity or to meet current program standards. Throughout Subpart A, the FHWA updated the

references where needed. To simplify reporting requirements, the FHWA revised the report form in Appendix B.

The financial means language in the definition for *comparable replacement dwelling* now matches changes made in Subpart E relative to revisions in defining the base monthly rent for low income occupants. In addition, the final rule clarifies that subsidized housing computations can apply the subsidy program's unit size restrictions based on a family's current needs rather than the size of the unit currently occupied.

The FHWA reformatted the *Decent, Safe & Sanitary* (DSS) considerations with particular attention to emphasizing the use of local codes and ordinances as applied to bedroom requirements and egress from multi-story buildings. In addition, the FHWA broadened the language related to DSS contained in Appendix A to address persons with physical disabilities beyond those dependent on a wheelchair.

Subpart B Acquisition

Subpart B contains the procedural requirements for handling the appraisal and acquisition of real property for federal or federally funded programs or projects. The FHWA clarified that exceptions from provisions in Subpart B for voluntary transactions or non-eminent domain acquisitions are limited to federally-assisted acquisitions and no longer are available for direct federal acquisitions. The FHWA adopted the changes to clarify the meaning of sections on less than full fee interest acquisitions, conflict of interest standards, appraisal review qualifications, administrative settlement justification, and the scope of effort expected in contacting an owner.

The FHWA modified a key provision that increased the appraisal waiver threshold from \$2,500 to \$10,000 with an option for the federal agency funding a project to approve an increase of the waiver amount up to a maximum of \$25,000. Appraisal waivers above \$10,000 are conditioned on the acquiring agency offering the property owner the option of requesting an appraisal of the property. The FHWA changed appraisal standards to appraisal requirements to avoid confusion with the Appraisal Foundation's Uniform Standards of Professional Appraisal

Practice (USPAP) rules and refined the appraisal requirements to address distinctions between USPAP and the procedures required under the Uniform Act.

The final rule added provisions to include a statement within an appraisal to clearly define the scope of work. The rule also delineated more clearly the role and responsibilities of the review appraiser in assisting the agency in establishing the amount of just compensation offered to purchase property from an owner.

Subpart C Relocation

Subpart C prescribes general requirements relating to providing relocation assistance and payments to eligible displaced persons. The rule expands and clarifies the written notification that the acquiring agency must send to each occupant and prohibits any attempt to propose or request that an eligible occupant waive relocation assistance or benefits. The rule clarifies that payments received under this subpart are not considered federal financial assistance.

The rule emphasizes relocation assistance planning and adds interview requirements for non-residential displacements to strengthen provisions that displaced persons be fully informed. In particular, for non-residential displacements, the FHWA expanded the scope of the interview to include 1) replacement site requirements; 2) the need for specialists to assist in move planning; 3) early personality/realty determination; 4) the time needed to vacate; 5) expected difficulty in locating a replacement property; and 6) identification of advance payments that might be necessary to successfully complete the move.

For residential displacements, the rule requires an offer of transportation to inspect replacement housing to which persons have been referred by the agency. The rule also provides increased assistance in understanding subsidized housing options.

Subpart D Moving and Related Expenses

Subpart D covers benefits due a displaced person for moving and related expenses. For clarity, the FHWA reorganized a major portion of the subpart. The FHWA categorized move cost benefits under either residential or non-residential moves. For those situations requiring only the removal of personal property from the acquired property, the FHWA reorganized and clarified eligibility provisions. The FHWA also added revised guidance, both to the rule and in the appendix, for low value/high bulk items and for calculating actual direct loss.

For residential moves, the final rule prohibits using bids or estimates to support payment for a residential self move. Residential self move reimbursement is restricted to either a payment based on the *Fixed Residential Moving Cost Schedule* or an actual cost move for all or a portion of the move supported by receipted bills for labor and equipment. The rule continues to provide reimbursement to cover costs of a commercial move.

For non-residential moves, the rule added several important benefits. The rule now identifies three expense items previously included as reestablishment expenses as eligible actual cost move expense items. These include 1) cost to connect utilities from the right-of-way to improvements at the replacement site; 2) professional services necessary to evaluate a replacement site for suitability to the displaced person's business operation; and 3) impact fees or one-time assessments that may be applied. The rule raised the limitation on searching expense from \$1,000 to \$2,500.

Subpart E Replacement Housing

Subpart E covers the procedures used to compute and make available replacement housing for displaced residential owners and tenants. The FHWA reorganized and reworded the section to improve readability. For calculating the replacement housing payment (RHP), the final rule eliminated the adjustment to asking price requirement in order to streamline the computation and referral process. The updated list of allowable incidental cost items now includes the cost for a professional home inspection.

The rule added a provision whereby a 180-day owner who elects to rent can receive a rental assistance payment up to the RHP amount calculated to purchase a replacement property if the market rent computation supports such a payment.

The FHWA also added a provision to the calculation required for establishing base monthly rental to only use 30% of the displaced person's average monthly gross household income when that monthly income is classified as "low income" by the U.S. Department of Housing and Urban Development's *Annual Survey of Home Program Income Limits*.

Subpart F Mobile Home

Subpart F contains the governing provisions for calculating and providing a replacement housing payment to persons displaced from a mobile home and/or mobile home site. The FHWA reorganized the material in this subpart. The reorganization consolidates the necessary displacement determinations, locating each one with the applicable payment eligibility provisions. In particular, the determination whether a mobile home is real or personal property is a primary decision point that determines payment eligibility when dealing with this type of residential housing.

Subpart G Appendix A & B

Subpart G Certification remained unchanged by the rule revision. However, the FHWA updated and revised both Appendix A and Appendix B. Appendix A contains the additional discussion and examples necessary to enhance understanding and promote uniform application of the provisions in the rule. The appendix acts as an extension of the rule and the content is equal in significance to the rule itself.

Appendix B contains the instructions and the approved reporting form for submitting annual reports of acquisition and relocation activity subject to the Uniform Act. The FHWA simplified the form to reduce the administrative burden previously necessary to maintain detailed records of activities.

Information Resources

To obtain an electronic copy of the final rule as published in the *Federal Register*, you can access the Web page at http://www.archives.gov/federal_register/index.html or by connecting to the Government Printing Office's database at <https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR> .

As the lead agency for the Uniform Act, the FHWA's Office of Real Estate Services Web site at https://www.fhwa.dot.gov/real_estate/uniform_act/ will provide additional content to more fully explain the background and rationale for the key changes. The site also will include a question-and-answer section on the Uniform Act containing information relating to the recent rule change and other program-related interpretations.

Each federal funding agency serves as the primary information resource for its programs or projects subject to the Uniform Act. For access to those agencies, go to the official government Web portal at <https://www.usa.gov/> .