

would reduce the regulatory burden imposed on such businesses as well as on State and local governments implementing the regulation. Therefore, on July 27, 1992 (57 FR 33164), we issued a notice of proposed rulemaking (NPRM) proposing these changes to the common rule and published the final rule on April 30, 1993 (58 FR 26072).

1999 Amendments to the Governmentwide Regulation

Pub. L. 105–117, 111 Stat. 2384 (November 21, 1997) amended the Uniform Act to provide that an alien not lawfully present in the United States shall not be eligible to receive relocation payments or any other assistance provided under the Uniform Act, unless such ineligibility would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, and such spouse, parent, or child is a citizen or an alien admitted for permanent residence. As a result of these changes, the FHWA proposed to amend the common rule to reflect the prohibitions on payments to aliens not lawfully present in the United States. After publishing an NPRM on June 12, 1998 (63 FR 32175), the FHWA published a final rule implementing these changes on February 12, 1999 (64 FR 7127).

FHWA Actions To Update the Regulations

Following a series of requests from other Federal Agencies, States, and local public agencies, concerning the need for updating the Uniform Act and Title 49, CFR Part 24, the FHWA initiated a comprehensive review of 49 CFR part 24 by hosting an all Federal Agency briefing and listening session at the Uniform Act 30th Anniversary Symposium in Mesa, Arizona, in November of 2001. Seventy-five individuals representing 14 Federal Agencies, provided specific comments and suggestions. We compiled the comments and in March of 2002 we formed a Federal Interagency Task Force (Task Force) to review all comments received from both the private and public sectors and to begin developing proposed changes to the common rule. All 18 Federal Agencies whose programs are affected by the Uniform Act were asked to provide a representative to be a member of the Task Force. Next, the FHWA published a notice on May 14, 2002 (67 FR 34514), announcing 5 nationwide public listening sessions in June and July 2002 to gather broader input.

Following these sessions, the Task Force once again evaluated each comment. Based on the comments

received, the FHWA determined there was a need to update the regulation. The Task Force then began to identify specific provisions of the regulation that should be updated. The Task Force drafted proposed regulatory language, and on November 7, 2002, the FHWA hosted an All-Federal Agencies' meeting to present and discuss the draft language to each of the Agencies affected by this rule. On December 5, 2002, each Agency was given the draft language and asked to provide its specific feedback to the FHWA. This feedback helped the FHWA formulate the proposed changes in this NPRM.

Section-by-Section Discussion of Proposed Changes

Descriptions of the regulatory changes proposed in this part are set forth below. All members of the public who are affected by relocation or land acquisition activities undertaken or funded by Federal departments and Agencies are encouraged to comment on this NPRM. Comments from interested State and local governments are particularly requested. We have made several minor grammar changes such as adding or deleting commas and shortening sentences for clarity that will not change the meaning or intent. These minor changes are not addressed in the Section-by-Section discussion.

Subpart A—General

Section 24.2 Definitions

We propose to add a subsection listing acronyms and to include a numbering system to better identify definitions. This would provide users a list of the most commonly used acronyms in the regulation. These acronyms have become commonplace in conversation and correspondence in the land acquisition and displacement activities of the 18 Federal Agencies. Also, currently, there are 35 complex and lengthy definitions listed in alphabetical order. Without a clear and simple way of referring to definition provisions it is difficult to communicate with affected parties, which complicates both effective Agency administration and public understanding of applicable provisions. Since this rule applies to the programs of approximately 18 Federal Agencies, it is important that they all write and talk with the same understanding. To include a numbering system for the definitions was one of the most requested proposals received during the comment period from both the private and public domain.

Section 24.2(a)(6)(ii) Comparable Replacement Dwelling

We propose to remove the phrase "style of living" from paragraph (2) of the definition of comparable replacement dwelling.

The phrase "style of living" has sometimes been misused and has proven to be confusing. Occasionally, it has been used out of context and interpreted to require identical unique features found in acquired dwellings such as, cherry cabinets, gold fixtures, and other specialized items to be in comparable replacement dwellings. In such cases, the standard for replacement housing has been raised to a level above "comparable." This interpretation can make it nearly impossible to find appropriate replacement housing and could result in replacement housing payments greater than those intended by Congress. As noted in the conference report accompanying the 1987 amendments, "The Conferees recognize that strict and absolute adherence to an exhaustive, detailed, feature-by-feature comparison can result in rigidities. These can constitute a substantial economic burden and can lead to excessive cost if the law requires, or is interpreted to require, the replacement dwelling to possess every feature of the acquired dwelling as an absolute minimum." H.R. Conf. Rep. No. 100–27, at 247 (1987).

The Congress realized the difficulty in finding comparable replacement dwellings and intended there to be some flexibility in the definition. Removing the phrase "style of living" will not erode any protections provided to the displaced person. Other criteria under the definition of comparability would adequately cover the factors covered by "style of living."

Section 24.2(a)(6)(vii) Comparable Replacement Dwelling—Currently Available

We propose to revise section 24.2(a)(6)(vii) by deleting the last sentence and moving it to a new section, 24.2(a)(6)(ix). This new section would also provide that, when a person that is displaced from government subsidized housing accepts an offer of government housing assistance at the replacement dwelling, any requirements of the government housing program relating to the number of rooms or living space of the replacement dwelling would apply.

Section 24.2(a)(6)(viii) Comparable Replacement Dwelling—Within the Financial Means of the Displaced Person

We propose to consolidate the definition of comparable replacement