

other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

Section 24.2(a)(9)(ii)(D) Persons not displaced. Paragraph (a)(9)(ii)(D) of this section recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. Any residential tenant who has been temporarily relocated for a period beyond one year must be contacted by the Agency and be offered all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses or must be determined to be displaced at the agency's option.

It is also noted that any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with 49 CFR 24.10.

Section 24.2(a)(15) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by Federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see Federal Highway Administration, Office of Real Estate Services Web site: <http://www.fhwa.dot.gov/realestate>. (FR 4644-N-16 page 20319 Updated.) If there is a question on whether or not to include income from a specific program contact the Federal Agency administering the program.

Section 24(a)(16) Initiation of negotiations. This section provides a special definition for acquisitions and displacements under Public Law 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision were made later to permanently relocate such persons, those

who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition that is based on the public health advisory or announcement of permanent relocation.

Section 24.2(a)(18) Mobile home. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the "primary" place of residence; it is located on a purchased or leased site and connected to all necessary utilities for functioning as a housing unit on the date of the displacing Agency's inspection; and, the dwelling, as sited, meets all local, State, and Federal requirements for a DSS dwelling. (It should be noted that the regulations of some local jurisdictions will not permit the consideration of these vehicles as DSS dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

There are several types of factory-built housing, but the most common is "HUD-Code" or manufactured homes. HUD-Code homes are so named because since June 15, 1976, these homes must be designed and constructed according to the Federal "Manufactured Home Construction and Safety Standards" ¹ administered by HUD.

Our definition of a mobile home would also include mobile homes, defined as being transportable in one or more sections not less than eight feet wide and forty feet long.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They are built on and remain on a permanent chassis, and may or may not be installed on a permanent foundation when connected to utilities. Manufactured homes may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

The 1976 HUD standards distinguish manufactured homes from factory-built "modular homes" as well as conventional or "stick-built" homes. Both of these types of housing are required to meet State and local construction codes.

Section 24.3 No Duplication of Payments.

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

Section 24.9 Recordkeeping and Reports.

Section 24.9(c) Reports. This paragraph requires that Federal Agencies submit an

¹ The U.S. Department of Housing & Urban Development's "Manufactured Home Construction and Safety Standards" is available at the following URL: <http://www.cfda.gov/public/viewprog.asp?progid=316>.

annual report of their real property acquisition and displacement activities under this part to the lead Agency. The report covers activities during the Federal fiscal year immediately prior to the submission date. In order to minimize the administrative burden on Agencies implementing this part, a basic report form (See appendix B of this part) has been developed which, with only minor modifications, would be used in all Federal and federally-assisted programs or projects.

Subpart B—Real Property Acquisition

Section 24.101 Applicability of Acquisition Requirements.

Section 24.101(a) Direct Federal program or project. All 49 CFR Part 24 requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Electrification Administration. There are no exceptions for "voluntary transactions."

Section 24.101(b)(1)(i). The term "general geographic area" is used to clarify that the "geographic area" is not to be construed to be a small, limited area.

Section 24.101(b)(1)(iv) and (2)(ii). These sections provide that for programs and projects receiving Federal financial assistance, Agencies are to inform the owner(s) in writing of the Agency's estimate of the market value for the property to be acquired.

While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited "public interest value" valuation concepts.

Section 24.101(c) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases. However, the Agency may apply the regulations to any less-than-full-fee acquisition which is less than 50 years in duration, but which in its judgment should be covered.

Section 24.102 Basic Acquisition Policies.

Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner. The threshold for an appraisal waiver is based on minimizing appraisal costs for low value, non-complex acquisitions.

The determination to use the appraisal waiver process, i.e., that the acquisition will be uncomplicated and the market value is estimated at \$10,000 or less must be made by a person who has enough understanding of appraisal principles to be qualified to make such a determination.

The intent of the appraisal waiver provision is that waiver valuations be made by non-appraisers, freeing appraisers to do more sophisticated work. Since waiver