

replacement dwelling has been made available;

(4) Informs the displaced person or person required to move temporarily that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments under this part, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, pursuant to § 24.208(h); and

(5) Describes to the displaced person (or persons required to move temporarily) their right to appeal the agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the earliest of: the date of a notice of intent to acquire, rehabilitate, and/or demolish (described in paragraph (d) of this section); the initiation of negotiations (defined in § 24.2(a)); the date that an agreement for voluntary acquisition becomes binding (defined in § 24.2(a)); or actual acquisition. When this occurs, the agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) *Ninety-day notice*—(1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The agency may issue the notice 90 days or earlier before it expects the person to be displaced.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (See § 24.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be re-

quired to vacate the property on less than 90 days advance written notice if the agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the agency's determination shall be included in the applicable case file.

(d) *Notice of intent to acquire, rehabilitate, and/or demolish.* A notice of intent to acquire, rehabilitate, and/or demolish is an agency's written communication that is provided to a person to be displaced, including persons required to temporarily move, which clearly sets forth that the agency intends to acquire, rehabilitate, and/or demolish the property. A notice of intent to acquire, rehabilitate, and/or demolish establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance to the activity. (See § 24.2 (a).)

**§ 24.204 Availability of comparable replacement dwelling before displacement.**

(a) *General.* No person to be permanently displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at § 24.2(a)) has been made available to the person. Information on comparable replacement dwellings that were used in the determination process must be provided to permanently displaced persons. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed in writing of its location;

(2) The person has sufficient time to negotiate and enter into a purchase or lease agreement for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal agency funding the project may grant a waiver of the requirement

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in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5122);

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person to be displaced is required to move from the displacement dwelling for a temporary period because of an emergency as described in paragraph (b) of this section, the agency shall:

(1) Take whatever steps are necessary to assure that the person who is required to move from their dwelling is relocated to a DSS dwelling;

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the emergency move; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment; the date of displacement is the date the person moves from their dwelling due to the emergency.)

### § 24.205 Relocation planning, advisory services, and coordination.

(a) *Relocation planning.* During the early stages of development, an agency shall plan Federal and federally assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program re-

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sources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households permanently or temporarily displaced. When an adequate supply of comparable housing is not expected to be available, the agency should consider housing of last resort actions.

(3) An estimate of the number, type, and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing or temporarily moving the businesses should be considered and addressed. Planning for permanently and temporarily displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

(5) Consideration of any special relocation advisory services that may be necessary from the agency displacing a person and other cooperating agencies.

(b) *Loans for planning and preliminary expenses.* In the event that an agency elects to consider using the duplicative provision in section 4635 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the Lead Agency will establish criteria and